App. F. IX-4

2 Legis

194 (Legis)

File No. 18-4-43

Serial Nos. 1

Previous References.
Legis 24-38-2
" 38-38-1-5
" 37-38-2, 3, 4

Later References.
Ch. Dept no 25/45-46
Ch. 8. 46-(2)

(115)

GEN[illegible]AL AND REVENUE SECRETARIAT

Serial Nos.

Part B for September 1943

SUBJECT

The D[illegible]olution of Muslim Marriage Act 19[illegible]

The Mussalman W[illegible]akf Validating Bill

To

The complete Mysore Gazette

No RL 194 - Legis 18-4-3-1 dated 16th Aug 43

Orders the publication of the Act in the Gaz[illegible]

J. Venkatanarasiah

25-9-43

Non-Official Bills 2238 RA 6310 P 340

General and Revenue Secretariat R. A. & L. C. | RA File No. | of 1940-41 | App. F. III-2

48/43-44RL

Serial No.

Letter dated 1st May 1941 from Mr Mohammed Abbas Khan, Member, Legislative Council, forwarding a bill to consolidate the provisions of Muslim law relating to ~~Suits~~ Suits by married Muslim women for dissolution of marriage & requesting ~~& requesting~~ necessary sanction for placing the bill for discussion at the October Session of the RA.

Submitted for perusal. If approved the Bill will be forwarded to the Legislation Branch for taking further action in accordance with the provisions of Rule 32 of the Mysore Legislative Rules 1941.

Mew 3/5

3.5.41

Asst Secy Protection to Govt

BKR 3.5.41

The question of undertaking legislation in regard to wakfs and divorce under Mohamadan Law was the subject of a resolution of the all-Mysore State Muslim League a copy of which was sent to Government sometime ago. The Judges of the High Court were consulted in the matter and their opinion is put up.

A representation was also moved in the R.A. in 1938 and the discussions therein is put up. The First Member was pleased to state that members of the Muslim community might draft a bill and seek for leave to introduce it as a private Bill. He added that

NOTE—Contn. Sheet.

6310

Law Official 1/45 – Divorce under Mahomedan law and the Wakfs. P'

File No. of 194

General and Revenue Secretariat
R. A. & L. C.

Serial No.

Government were prepared to render all possible help to the members of the Muslim community in drafting a Bill which would be acceptable to the bulk of the community. (P. 6)

Submitted for perusal in the first instance. The permission asked for is to place it before the October Session. ~~In the meanwhile and if approved, the opinion of the Legislative Department should be obtained on the Bill.~~

The Bill has been sent by Mr. Abbas Khan. The Statement of General Principles and the Statement of Objects and Reasons required to be submitted with the Bill under rule 32 of the Legislative Rules have not been furnished in this case. These will have to be called for.

BXR 6.5.41

Law Secy

6/5/41

Hon 2 6/5/41

BXR 6.5.41

A draft to the Member is submitted

DSM BXR 7.5.41

Hon 7.5.41

Hon'ble P 5-6-41 & 7.5.41 to Mr. Abbas Khan asking for Copies of Statements.

Though Mr. Abbas Khan was requested to furnish the Statement of General principles and the Statement of

Non official Bills – Muslim Waqf Bill Mr Abbas Khan

eneral and Revenue Secretariat | File No. 2238 of 194 D.326/41-42 | [App. F. III-2

Serial No.

Objects and Reasons he has not yet come so Whether a reminder need issue is for orders.

Sons 25/7/41

Secy RA&Le) Please issue a reminder

Sons 25/7.

A draft reminder is put up for approval.

Dftsn 26.7. BNM 26/7

Dftsn Sons 26/7

OFFICE OF THE SECRETARY 28 JULY 1941 REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL 2817.

Issued vide DL 269 dated 28.7.1941

Letter dated 1/8/1941 from Mr Mohamed Abbas Khan, M.L.C. forwarding the particulars called for.

Submitted for perusal with reference to this office letter No DL 269 dated 28th July 1941. If approved the Dftsn file will be sent to the Law Section for scrutiny.

BNM 4/8 Secy RA&Le) Sons 5/8 JNW 8/8

Law Secy)

Hsm 2 8/8/41 JNW 9/8

Asst Secy Law W.C

The British Indian Acts corresponding to the Bills in question may please be put up.

Mr Secy Legis Dept 3/11/1941 JNW 12/8 Sons 12/8/41

(Proper)

The Corresponding British Indian Act is Act VI of 1913

The Mussalman Wakf Validating Act, 1913. amended read with Act XXXII of 1930

NOTE—Contn. Sheet.

85/841
P

Dissolution Bills - Waqfs

File No. 326 of 194 | General and Revenue Secretariat

Serial No.

Some of the Provinces have also legislated on this question and they are Bengal Act XIII of 1934
Bombay Act XLII of 1923 (amended by XVIII of 1935)
U P Act XIII of 1936.

The Dissolution of Muslim marriages Act, 1939 (VIII of 1939) is the latest Act governing divorce under Mahomedan law.

Sec 18/87

Secy (Asst Secy)

BKR 18841

Asst. Secy Law Section DC

May well be seen to the Legislative Section for further action.

Law Secretary. 3/19/87.

Hon 2/19/8/41.

BKR 19/8/41

Two separate Bills have been sent by the Secretary.

1. In regard to Waqfs:

The Bill now sent follows the British Indian Act of 1913. The opinion of Mr. Justice Abdul Qaiyum on this question which was given in another Connection was that it is not advisable to permit the tying up of Properties mainly if not solely for the benefit of the

Flag F

Serial No.

descendants of the Wakif as it would result in a class of lazy people and secondly as that was intended for the poor or for religious purposes should not be misused to provide for the family and descendants without any ~~rule~~ regard to the rule against perpetuities. He however added that legislation may be undertaken if public opinion was in favour.

When this question came up before the R.A. sometime ago, the then Hon'ble Member was pleased to observe that if legislation was desired by members of the Muslim Community they might draft a Bill and Government would ~~consider~~ how best to help the community.

The Bill has now been (brought forward by a Muslim Member of the Legislature (moved)

2. The Bill re Divorce.

Mr. Justice Abdul Ghani has expressed the opinion that with some modifications the provisions of the British Statutes may be introduced in Burma with advantage. He has added that if the Majority of Muslims in the State Pass for a change that alone would be sufficient for us to act in the matter. The Bill as originally introduced in Burma

NOTE—Contn. Sheet.

Law Official Bills — (1) Wakf
(2) on restitution of conjugal rights

File No. of 194

General and Revenue Secretariat
R. A. & L. C.

326

Serial No.

The Act as it finally emerged from the Select Committee of 1939 and the Assembly is different in some essentials. This question could perhaps be considered by a Select Committee of the Legislature in case permission is given to the Bill.

The question of granting permission is for orders

Secy
R.A. & L.C.)

SDS
6.9.41

BKR
6.9.41

Law Secy)

Permission may be granted.

Minister for Law & Dewan)

Hm
6/9/41

BKR
8.9.41

Hm
8/9

RLL
8/9/41

Hm
9/9/41

BKR
9.9.41

This is a Council matter and may perhaps be on the power of the circulation

Dewan) Law Secy)

BKR
11.9.41

Hm
12/9/41

RLL 17/9/41

BKR
12.9.41

The All Mysore State Muslim League has also passed a resolution in 1938 that the Law may be brought into force in British India. Flag A.

SDS
6.9.41

DEWAN'S OFFICE
8 SEP 1941
NO 1979

SECY. LAW DEPT.
8 SEP. 1941
GOVT OF MYSORE

OFFICE OF THE MINISTER FOR LAW
SEP 8 1941
No 2297

DEWAN'S OFFICE
13. SEP. 1941
NO 2162

SECY. LAW DEPT.
11 SEP. 1941
GOVT OF MYSORE

General and Revenue Secretariat
R. A. & L. C.

File No. 326 of 194

[App. F. III-2

Serial No.

For favour of Circulation

Rect on 23.9.41

Submitted with a circulation memo

Chief Secy / M/c.

Hm 2 17.9.41.

PS to R 17 9 41

Sd 23/9/41

Signed MMS 23/9/41

NOTE—Contn. Sheet.

WD 01925—GPB—1,000—4-3-4

For Disposal by Circulation. **No. C.250**

1941-42

GENERAL AND REVENUE SECRETARIAT

Council Matter.

Subject

Permission for the introduction of -

(1) Musalman Waki Validity Bill, 1941, and

(2) the Mysore Muslim Dissolution of Marriage Bill, 1941,
in the Representative Assembly Session: October 1941.

Circulated to the Council of Ministers.

By Order,

Chief Secretary to Government.

23rd September 1941

1718/25.9.41 **Minister for Finance and Revenue.** 28/9

Minister for Law. (Seen)

1982/25.9.41 **Minister for Education.** 26.9

1905/26.9.41 **Minister for Local Self-Government and Public Health.** 26.9.41

Law Secy. with compliments

2-97 RL

Non-Official Bills - (1) Muslim Wakfs
(2) Divorce

General and Revenue Secretariat
R. A. & L. C.

File No. of 194

App. F. III-2

Serial No.

A & SN is put up.

SN 30.9.41
1.10.41

Secy (RA-sl.c)

BXR 2.10.41

Lawsey)

S. N. submitted

Reed. from R.A. Office on 9.10.1941

Dewan)

Hrm 2 4/10/41

SN 3.10.41

DELHI OFFICE
DEL 1941
NO 3050

Submitted to His Highness

Khan Bahadur Mahomed Abbas Khan, a member of the Legislative Council, has sent two non-official Bills, namely, the Mysore Muslim Dissolution of Marriage Bill and the Mussalman Wakf Validity Bill and has sought the permission of the Dewan to place them before the Representative Assembly.

In 1939, the opinion of the Judges of the High Court was invited on a resolution of the All Mysore State Muslim League suggesting the introduction of legislation in regard to Mahomedan law on the lines of similar legislation in British India.

The opinion of the Chief Justice was that no such legislation should be undertaken unless it was supported by a very predominant majority of those concerned. Mr. Justice Abdul Ghani expressed the opinion that legislation in regard to divorce might be undertaken and that, if public opinion was in favour of legislation for the creation and recognition of Wakfs, such legislation might also be undertaken. Mr. Justice Singaravelu Mudaliar was of opinion that legislation might be undertaken if the majority of the community was in favour of it.

The introduction of a Muslim Wakf Properties Act was the subject of a representation in the Budget Session of the Representative Assembly in 1939. I then expressed to the House that it would not be advisable for the Government to initiate legislation in the matter, that in matters affecting the personal laws of a particular community, it would always be advisable to go by the wishes of the community and that the Government would render all possible help in that connection.

The two Bills have now been brought forward by a Muslim member of the Legislative Council, and I consider that permission may be granted to place them before the Representative Assembly. The Ministers concur in this view. As I indicated in the Assembly, Government will go by the wishes of the majority of the community, as disclosed by the discussions in the Houses and outside, should there be discussion outside the Legislature.

The papers are submitted for the gracious perusal of His Highness.

N. Madhava Rao

DEWAN.

Camp Mysore,
10th October 1941.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Grant of permission to Khan Bahadur Mahomed Abbas Khan, Member, Legislative Council, to place two non-official Bills (Musalman Wakf Validity Bill and Muslim Dissolution of Marriage Bill) before the Representative Assembly.

Order.

13/10/'41

General and Revenue

Secretariat.

SUBJECT:—
Grant of permission to Khan Bahadur Mohamed Abbas Khan, Member, Legislative Council, to place two non-official Bills (Musalman Wakf Validity Bill and Muslim Dissolution of Marriage Bill) before the Representative Assembly.

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

34. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Council of Ministers for perusal of His Highness' orders before/~~after~~ issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.) (*)

Chief Secretary to Government.

Through the Secretary to Government,

.....Law.....Department. 17.10.41

2314/20.10.41 Minis nue. 20:10

3706/17.10.41 Minister for Law. 17-10-41

2324/20/10/41 Minister for Education. 20.10

2310/22-10-41 Minister for Local Self-Govt. and Public Health. 22.10.41

Law Secy. with Compliments.

)TE.—Contn. sheet

WD 02878—GPB—300—26-6-41

22/10/41

23/10/41

Non Off. Bills :- Muslim Divorce & Muslim Wakf Bills

General and Revenue Secretariat
R. A. & L. C.

File No. D 326 of 194

App. F. III-2

DEWAN'S OFFICE
24. OCT. 1941
NO 3406

SECY. LAW DEPT.
23 OCT. 1941
GOVT OF MYSORE

Serial No.

A Draft to Mr Abbas Khan intimating that the approval of the Dewan has been obtained to his Bills and that they will be placed before the R.A. at its next session is put up for approval

Sd/- 23.10.41

Law Secy)

For perusal before issue

Dewan) Hm 2 23/10/41.

Sd/- 24.10.41

Nil
24/10/41

Hm 25.10.41

Jsbne

Sd/- 25-10-41

Issued No. R.L. 842 dated 27-10-41

Kindly refer to this Office letter no RL 842 dated 27.10.41 intimating Khan Bahadur Abbas Khan, member of the L.C. that his two bills viz 1) Musalman Wakf Validity Bill & 2) Muslim dissolution of Marriage Bill, will be placed for discussion at the next Session of the R.A. As these are non-official bills sponsored by a member of the Legislature Council, Cl (a) of Rule 33 of the Mysore Legislature Rules, requires that for the place these bills

NOTE—Contn. Sheet.

Non-Official Bills

File No. 326/RR of 194 | General and Revenue Secretariat R. A. & L. C.

Serial No.

for discussion in the Session of the R.A.

For Orders if the file may be sent to the Administrative branch for obtaining orders as to who may be in charge of these two bills & returning the file to the R.A. Office for including these bills in the list of business to be transacted at the ensuing budget Session of the R.A.

DSR
15.4.42
BSVN 15/4

BSKR
15-4-42

Law Secy)

SECY: LAW DEPT. DIARY 15 APR. 1942. GOVT OF MYSORE

The non-official Bills will have to be dealt with in R.A & L.C. Secretariat which is a part of the Law dept. There is no separate administrative Section for these.

Hm
2
15-4-42

BSKR
15-4-42

The two Bills Viz.) Musalman Wakf Validating Bill & 2) Muslim Dissolution Marriage Bill will be included in the list of business to be transacted at the ensuing Budget Session of the R.A.

It is submitted for Orders as to who may be in charge of these bills at the ensuing R.A. Session

Sd/- 15.4.42

DSR
17.4.42
BSVN 17/4

Secy (R.A & L.C.)
for Law Secretary

Law Annual Bills } Divorce Validating Bill

General and Revenue Secretariat
R. A. & L. C.

File No. 326/42 of 194

OFFICE OF THE MINISTER FOR LAW
APR 17 1942
No. 10855

App. F. III-2

Serial No.

SECY. LAW DEPT. 326 17 APR 1942 GOVT OF MYSORE

May be in charge of the Bill

BKR 17.4.42

Law Secy)

The Law Secy may be in charge of the Bills.

Minister for Law) Hm 2 17.4.42

BKR 17.4.42

Bz 17-4-42

Hm 2 20-4-42

BKR 20.4.42

BDS 20.4.42

A draft letter to Mr. Abbas Khan, intimating that the Muthalman Wakf Validating Bill sponsored by him has been vetted by the R.A., is submitted for approval

2N. 10-6-42 BDS

DSRao

BKR

Issued No 7360 dated 11th June 1942 to Mr. Mohamed Abbas Khan, MLA intimating him that the Statement of principles of the Muthalman Wakf Validating Bill was not approved by the Hon'ble

NOTE—Contn. Sheet.

Muslim Dissolution of Marriage bill

326 ✓ 236

RA File No. of 1941-42

General and Revenue Secretariat
R. A. & L. C.

Serial No.

Submd

The Muslim Dissolution of Marriage bill, sponsored by Mr. M. Abbas khan was placed for Consideration at the recent Dasara session of the R.A (Octr. 1942) & the Principles of the bill were appd by the Chamber. Standing Order 29 of the R.A. Standing Order requires that the opinion of the Assembly in respect of every non-official bill shd be Communicated to the sponsor of the bill.

A draft letter accordingly to Mr. M. Abbas khan is put up for appl

DSO
31.10.42

DS the D.Sec
31.10.42

RA
31.10.42

Issued vide RL 2391 dated 31.10.42.

Letter dated 30.10.1942 from Mr M Abbas khan, Member, L.C. requesting that ~~his~~ the Muslim Dissolution of marriage bill which was appd at the recent session of the R.A. may be laid on the table of the next session of the L.C. Submd for perusal. The Principles of the Muslim Dissolution of Marriage bill were appd at the recent Dasara Session of the Assembly. As required by rule 35(1) of the Legislative rules, four have to lay on the table of the

Muslim Dissolution of Marriage Bill

326 ∫ 231/N

General and Revenue Secretariat | File No. | of 1941-42 | App. F. III—2

Serial No.	
	Session of the Council, a copy of the bill at the request of the member
	submitted for orders.
	DSR — The Bill has to be laid on the
	3.11.42. table at the request of the member
	under rule 35. This item will be for inclusion
	in the Agenda if approved, the Law Secy laying
	the Bill on the table
	There is no need to send a copy of
	the Bill to the members with the Agenda.
	Secy) DSR 3.11.42
	NA-LE)
	BKR 3.11.42
	Law Secy)
	Cws 5-11-42
	Dewan BKR 5.11.42
	Nil 8/11/42
	Cws 10-11-42
	BKR 10.11.42
	DSR 10.11.42

SECY. LAW DEPT. 4/24 1942 GOVT OF MYSORE

NOTE—Contn. Sheet.

WD 04155—GPB—55,000—23-10-41

Muslim Dissolution of Marriage Bill.

File No 236/26 of 194 .

General and Revenue Secretariat.

Serial No.

Notice has been given by Mr. Abbas Khan of Motion for leave to introduce and for reference to a Select Committee has been admitted.

In regard to the latter Motion it is for Consideration if an amendment should not be moved for Circulating the Bill for eliciting Public opinion.

In British India the original Motion by the Private Member who introduced the Bill was only for Circulation.

The Practice of Government has been stated to be (in Bills 2nd) not any Bill which Proposes to alter social or religious usages or Customs of a Community should be Ventilated as widely as possible before the House Proceeds to Consider it.

In the Case of this Bill Certain aspects would appear to require Consideration by the Hindu Community also. This aspect of the question has been referred to by Sir N. N. Sircar Law Member during discussion on the Bribh Indian Bill.

In any view it appears desirable that the Bill is Circulated. If afterwards while any amendment will be given in the name of the Law Secy. one days Notice is necessary for this purpose must a motion of the President given at the next Session of the L.C. Non Official

236/IV

Muslim Dissolution of Marriage Bill

General and Revenue Secretariat R. A. & L. C. | File No. | of 194 | [App. F. III–2

Serial No.

Business is tables for 12th inst.

Secy 10.12.42

Law Secy

This being a piece of Social Legislation it is desirable that the bill should first be circulated for public opinion by 1st April 1943, and an amendment tables to that effect

BVR 10-12-42

Law Secy 10-12-42

Not necessary. I consulted the Law Minister

Law 10-12-42

BVR 11-12-42

SECY. LAW DEPT. 7 JAN 1943 GOVT OF MYSORE

This Bill was introduced in the Legislative council on the 11th December 1942 by Khan Bhahadur Mahomed Abbas Khan, the Sponsor of this Non-Official Bill. The motion to refer the Bill to a Select committee was moved by the same member on the 12th Dec and the same was adopted.

The following are the members of the Select committee:

Mr. A. V. Ramanathan (Chairman

NOTE—Contn. Sheet

Muslim Dissolution of Marriage Bill.

File No. 236/41 of 194

General and Revenue Secretariat R. A. & L. C.

Serial No.

Mr. C. Narayanaswamy Naidu
" C. Lakshmana Gowda
" G.S. Nabiulla Sheriff
" A.K. Syed Tajpeeran
" L.S. Raju
Khan Bahadur Mahomed Abbas Khan

Subs for orders as to the date for holding the meeting of the Select committee

21/8/1/43
BVM 8-1-43

Subd.

Orders have been obtained in a separate file for summoning the meeting of the Select committee to consider this Bill on the 30th instant.

A draft G.M. intimating the date to the members of the Select committee is put up for approval

20/15.3.43
BVM 15/3

Done
BKR 15-3-43

Issued No 4554-59 LC dated 16.3.43

Subd.

Further instructions are received from the Office of the Minister for Education intimating that the Select committee

The Muslim Dissolution of Marriage Bill

Continuation Sheet. File No. / Current No. 236RL of rage.

meeting on the 13th may be postponed to 7th April 1943

A circular D.O. intimating the date, as above, to the members of the Committee is put up for approval

24/ 18-3-43

Issued

BKR 19-3-43

Issued No 4948-53 L.C. dated 19/22 March 1943

The File is submitted for perusal

The meeting of the Select Committee is fixed for 1 P.M. to-morrow.

BKR 6.4.43

Education (Minister)

The meeting of the Select Committee was held in the Minister's Chamber at 1 P.M on the 7th April. All the members were present The draft report of the Committee is put up for approval

BKR 25.4.43

Legal

P.W. (Minister)

27.4

BKR 28.4.43

28/4

The Dissolution of Muslim Marriage Bill

Continuation Sheet. | File No. / Current No. 236/RL | of | Page.

Supd

Typed copies of the Select committee report will be sent to the members for approval as soon as they are ready. A draft letter forwarding them to the members is put up for approval

24/ 29-4-43 — Secy — 29.4.43

BVN 29/4 — Addl Secy — BKR 29.4.43

Issued No 5875-80 L.C. dated 30-4-43.

From the Secy to Govt Law Deptt letter No L.C. 3681 dated 1-5-43 forwards the S.C. Report with approval thereto

Supd

Except Mr. S.S.N. Sheriff, the other members have returned the copies of the S.C. Report with their approval

A draft reminder to Mr. Sheriff is put up for approval — Addl Secy

24/ 8-5-43 — 8.5.43

BVN 8/5

Supd

Signed copies of the Select committee Report have been received from all the members, and are put up herewith for perusal

A copy of the Report as approved by the members and a copy of the amended

Mr. S.S.N. Sheriff has sent the S.C. Report to-day. Hence the reminder is not issued

24/ 8-5-43

The Dissolution of Muslim Marriage Bill
and
The Select Committee Report

Continuation Sheet. File No. / Current No. 236/R1 of Page.

Bill are put up for approval.

DO. 11-5-43 BDN 11/5 — Secy (RA & Le) — DN 11.5.43

BKR 11.5.43 — DN 15.5.43

P.W. Minister)

J.R.J. 15.5

BKR 18.5.43

DN 18.5.43

Subd

Khan Bhadur M.O. Abbas Khan, the Member in charge of the Dissolution of Muslim Marriage Bill, presented the report of the Select Committee on the aforesaid Bill to the Council on 21.6.1943 at the recent Budget Session of the L.C. held in June-July, 1943. The Bill was next taken up for consideration and finally passed by the Chamber in the same session on Saturday 3rd July, 1943. A copy× of the Bill as passed by the L.C. and signed by the President is put up for perusal. The Bill has now to be promulgated into Law.

D.F.N. is Subd for consideration

DFN 15.7.43 — Secy (RA & Le) — DN 15.7.43

BKR (15.7.43)

BDN 15/7 — Signed F.N. in duplicate is placed below. — Law Secy (on leave) — BKR 16.7.43

Minister for Revenue & Law)

15.7.43.

OFFICE OF THE MINISTER FOR PUBLIC WORKS
17 MAY 1943
No. 6635

OFFICE OF THE MINISTER FOR REVENUE & LAW
16 JULY 1943
No. 482

Submitted to His Highness.

I submit herewith a Final Note by the Minister for Revenue and Law on the subject of the promulgation into law of the Dissolution of Muslim Marriage Bill, for His Highness's gracious sanction.

N. Madhava Rau

Bangalore,
19th July 1943.

D E W A N.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Proposal to promulgate into law the Dissolution of Muslim Marriage Bill.

No. 68

Order.

28/7/'43.

Chief [illegible]

30/7/43

General and Revenue

Secretariat.

C 119.

SUBJECT:—

Proposal to promulgate into law the Dissolution of Muslim Marriage Bill.

(*)

14. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Ministers for perusal after the issue of orders.

16. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after, to the Chief Secretary for circulation to the Ministers.

17. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Council of Ministers for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 14, 16 and 17 of the Subsidiary Rules of the Mysore Government Business Rules.) (*)

Chief Secretary to Government.
30/7/43

Through the Secretary to Government,

.....Law.....Department.

30.7.43

615
2/8.

Minister for Revenue and Law. 3/8/43

643
30/7

Minister for Public Works. 31.7

884
31/7

Minister for Local Self-Govt. and Public Health. 31.7.43.

530
31.7.43

Minister for Industries and ~~Commerce~~ Supplies. 31/7

620
2/8

Minister for Education. 2/8

Law Secy

3/8/43

NOTE.—Contn. sheet

WD 02718—GPB—500—21-4-43

M.J.F.

The Dissolution of Muslim Marriages Bill

1681/43

Continuation Sheet. File No. / Current No. of 68 Rl Page.

√ 236 Rl

the gracious assent of His Highness the Maharaja was accorded on the 28th July 1943 to promulgate the Bill into law

A draft G.O. directing the publica of the Act as Act No XVIII of 1943 is submitt for approval.

SECY. LAW DEPT 1348 7/8/43 GOVT OF MYSORE

2N 7/8/43 BVN 7/8

May be approved

BVR 7.8.43

Law Secy

Ans 7-8-43

Issue

BVR 7.8.43

To the compiler, Mysore Gazette

No RL 194-Legis 18-43-1 dated 16th Aug 1943 directs the publication of the Act in the Gazette

The Act has been published in part IV of the Gazette dated 19th Aug 1943.

If approved the file will sent to the administrative Section (Pr. Br) for note and return

2N 30/8/43 BVN 30/8

Protection Branch) JNV 31/8

It is not clear that Prot. Br. can be the administrative Sec. for this Act. Since there is no further action to be taken in the matter, the file will be returned to the Legis Sec. (R. & R. Office)

JNV 31/8

31.8.43

H. K. M. K. 3 AUG. 1943 LEGISLATION

OFFICE OF THE SECRETARY 31 AUG 1943 REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

re Dissolution of Muslim Marriages Act 1943

Continuation Sheet. File No. 68/M of Page.
Current No.

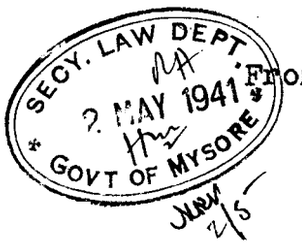
* A spare copy of the Act is put up herewith.
If approved, the file will be recorded

2N
15/9/43

INDIA

OFFICE OF THE SECRETARY
2N
15/9/43
REPRESENTATIVE ASSEMBLY
AND
LEGISLATIVE COUNCIL

2238
RS



From

Khan Bahadur
Mohammed Abbas Khan,
Member of the Legislative Council,
Bangalore.

To

The Secretary to the Government of Mysore,
Law Department,
Bangalore.

Sir,

I beg to submit herewith two Bills as mentioned below for being introduced into the Legislative Council and passed into Law, for the kind sanction of the Dewan of Mysore.

Further I beg to request that the Government will be pleased to place these Bills, when sanctioned by the Dewan, before the Representative Assembly at the October Session of 1941.

1. Bill to consolidate the provisions of Muslim Law relating to suits by married Muslim women for dissolution of marriage.

2. Bill to declare the rights of Mussalmans to make settlement of property by way of "Wakf" in favour of their families, children and descendants.

Bangalore,
1st May 1941.

I beg to remain,
Sir,
Your most obedient Servant,

Mohammed Abbas Khan

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Bangalore, Dated, 7th May 1941.

No. P. 5641/Leg.

From

The Secretary to the Government of His Highness
the Maharaja of Mysore,
Law Department.

To

Khan Bahadur
Mohamed Abbas Khan,
Member, Legislative Council,
Muslim Hall Road, Bangalore.

Sir,

With reference to your letter dated 1st May, 1941, forwarding 2 Bills for obtaining the permission of the Dewan to place them before the Representative Assembly in October 1941, I am directed to request that statements of general principles and of objects and reasons of the 2 Bills may also be furnished as required by rule 32 of the Mysore Legislative Rules, 1941.

I have the honour to be,
Sir,
Your most obedient servant,

HKR.

For Secretary to Government,
Law Department.

HKR/2.

P. 5641 Leg's 8 7.5.41

To

Khan Bahadur
Mohamed Abbas Khan,
Member, Legislative Council,
Muslim Hall Road, Bangalore.

Sir,

With reference to your letter ~~No.~~ .. dated 1st May 1941 forwarding 2 Bills for obtaining the permission of the Dewan to place them before the Representative Assembly in October 1941, I am directed to request that statements of general principles and of objects and reasons of the 2 Bills may also be ~~sent~~ furnished as required by rule 32 of the Mysore Legislative Rules, 1941.

I have, etc.,

HKR

for Secretary to Government,
Law Department.

HKR.

28th July 1941.

Khan Bahadur Mohammed Abbas Khan,
Member, Legislative Council,
Muslim Hall Road, Bangalore.

Sir,

I am directed to invite reference to this office letter No.P.5641 dated 7th May 1941 calling for the statements of general principles and objects and reasons of the two bills forwarded by you for obtaining the permission of the Dewan to place them before the Representative Assembly in October 1941, and to request that the same may be forwarded to this Office very early.

I have the honour to be,
Sir,
Your most obedient servant,

Secy to Govt Law Dept

Appendix F G–1]
P. A. & L. C.

SUBJECT

Section

File No.

Serial No.

Diary No. of letter replied to

General and Revenue Secretariat
R. A. & L. C.

( )

Date of issue 28.7.41

Signed by Mr G. S.K. Dy Sr

obtaining the permission of the Dewan to place them before the Representative Assembly in October 1941, and

No. RL 269 dated 22nd July 1941

To

Khan Bahadur
Mohamed Abbas Khan
Muslim Hall Road
Bangalore.

Sir,

I am directed to invite reference to this office letter no P 5641 dated 7th May 1941 calling for the Statement of final Principles & Objects & reasons of the two bills forwarded by you for being placed ~~before the Assembly at the next session of the Assembly~~ for consideration at the ~~next session of the~~ Assembly & to request that the same may be forwarded to this office ~~without any further delay~~ very early.

I have the

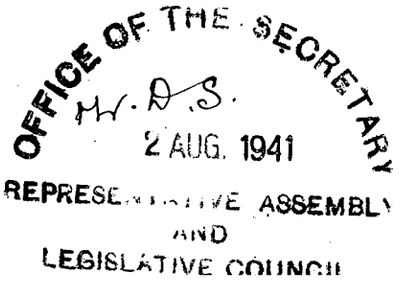
List of enclosures

Copied by

Examined by

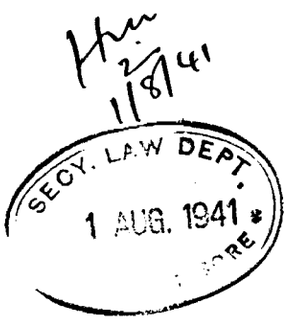
for Secy to
Govt
Law Dept

324



From

Khan Bahadur
Mohammed Abbas Khan,
Member of the Legislative Council,
B a n g a l o r e.



To

The Secretary to the Government
of His Highness the Maharaja of Mysore,
Law Department,
B a n g a l o r e.

Sir,

With reference to your letter No.P.5641/Legis dated 7th May 1941, I beg to submit herewith two Statements of general principles and objects and reasons of the two bills that I have submitted for obtaining the permission of the Dewan to place them before the Representative Assembly in October 1941.

I beg to remain,
Sir,
Your most obedient Servant,

Mohammed Abbas Khan

B a n g a l o r e,
Dated: 1st August 1941

R.L.842.
No. ~~L.842~~ dated 27.10.41.

To

Khan Bahadur
Mohammed Abbas Khan,
Member of the Legis. Council,
Bangalore

Sir,

I am directed to inform you that the ~~approval~~ sanction of the Dewan has been obtained to place the two non-official Bills (Musalman Wakf Validity Bill and Muslim Dissolution of Marriage Bill) sent by you before the Representative Assembly and that they will be placed before the ~~Representative Assembly~~ Chamber at its next Session.

I have etc.,

23/10/41

Secy. to Govt., Law Dept.

No. ~~3098 Le~~. R.L. 812.

27th October 1941.

han Bahadur
Mohammed Abbas Khan,
Member of the Legislative Council,
Bangalore.

Sir,

I am directed to inform you that the sanction of the Dewan has been obtained to place the two non-official Bills (Mussalman Wakf Validity Bill and Muslim Dissolution of Marriage Bill) sent by you, before the Representative Assembly, and that they will be placed before that Chamber at its next Session.

I have the honour to be,
Sir,
Your most obedient servant,

27/10/41

for Secretary to Government,
Law Department.

KSH

Statement of general principles and of objects and reasons of the Bill to consolidate the provisions of Muslim Law relating to suits by married Muslim Women for dissolution of marriage.

==========

According to Shariath Law marriage is a contract between two parties - husband and wife. Divorce that is to say annulling the marriage and freeing the parties from marriage ties and liberating them to marry again is also permitted. Husband can divorce his wife and this right is given to wife also. She can divorce the husband and this is called Khula in Shariath Law.

Indian Law Courts while they recognise the right of the husband to divorce, they deny the right of the wife to obtain Khula from the husband.

This inquality brought about between the rights of a husband and wife, has made Muslim husband neglect the wives and refuse to divorce them or even maintain them. They tease the wives by neglecting them and not even providing their necessaries. Further husbands may suffer from some loathsome disease or may be convicted which will involve moral turpitude. To restore a right which Muslim females had and which was denied to them hitherto a Bill has been passed in British India. Muslims in Mysore are undergoing that trouble and hardships. It is therefore necessary to restore the rights of Muslim females. Hence this Act.

This Bill is based on the model of British Indian Act now in force in British India.

Mohammed Abdul Khan

Bangalore,
Dated: 1st August 1941.

As the rights of Muslim females given to them under Islamic Law (Shariath) are very wide and the ~~British Indian Courts and~~ Mysore courts have been denying ~~them~~ these right to them on account of which they suffer a great deal. Hence the need for this Bill.

Muslim dissolution of Marriage **B I L L.**

To consolidate the provisions of Muslim Law relating to suits by married Muslim women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie.

Whereas it is expedient to consolidate the provisions of Muslim Law relating to suits by married women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie; it is hereby enacted as follows:--

1. (1) This Act may be called the Mysore Muslim Dissolution of Marriage Act, 1941.

(2) It shall apply to the whole of Mysore State and shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context, (1) "Maliki Law" shall mean Muslim Law as laid down by the "Maliki School"; and (2) "Hanafi Law" shall mean Muslim Law as laid down by the "Hanafi School".

3. A married Muslim woman may bring a suit against her husband for the dissolution of her marriage on any one or more of the following grounds:--

(A) 1. That the whereabouts of the husband have not been known for a period of four years.

2. That her husband has been insane for period of two years or is suffering from virulent form of veneral disease.

3. That her husband neglects or refuses to maintain her and she has no means to maintain herself.

4. That her husband persistently treats her with unbearable cruelty, that is to say:--

(a) habitually assaults her or makes her life miserable by cruelty of conduct.

(b) associates with women of evil repute or leads an infamous life.

(c) attempts to force her to lead an immoral life or

(d) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran.

5. That the husband has been sentenced to imprisonment for a period of seven years or upwards.

(B) 1. That being entitled to exercise her option of puberty, she has repudiated the marriage.

2. That her marriage was void or invalid ab initio or has become invalid by virtue of some subsequent event.

3. That her husband was impotent at the time of marriage and continues to be so.

4. That her husband has accused her of unchastity.

5. For any other reason which may be sufficient under Muslim Law for the dissolution of marriage.

4. (1) Suits brought on grounds mentioned in Section 3 (A) shall be heard and decided according to Maliki Law.

(2) Suits brought on grounds mentioned in Section 3 (B) shall be heard and decided according to Hanafi Law.

5. The conversion of a married Muslim woman to a faith other than Islam shall not by itself operate to dissolve her marriage.

6. (a) Subject to the provisions laid down in the Mysore Code of Civil Procedure, regarding the trial of suits, a suit for the dissolution of marriage by a married Muslim woman shall be filed in the Court of District Judge.

(b) Appeals from the decision of the trial Court shall lie to the High Court.

NOTE.-- This Bill is based on the model of British Indian Act now in force in British India.

Mohammad Abbas Khan
Member, Legislature

2 Copies.

Statement ~~of~~ general principles and of objects and reasons of the Bill to declare the rights of Mussalmans to make settlement of property by way of "Wakf" in favour of their families, children and descendants.

==========

According to Islamic Law a Mussalman is at liberty to create a Wakf (Trust) of his property reserving some interest for himself, his children and descendants and this tying down the property as to remain in his family and when the family becomes extinct the entire property will go to the benefit of the charity mentioned in the deed. As this tying down the property for more than a life period is repugnant to the provisions of transfer of property act and there are a series of decisions which lay down the rule that a man who create a Wakf cannot reserve any right either for his own benefit during his life time or for the benefit of his family or those in whom he is interested.

These decisions of the Indian High Court are quite contrary to the spirit and principles of personal law of the Muslims according to Shariath. To remove the hardship and bring the Anglo-Mohamedan Law nearer to the spirit of the Shariath Law a bill of this type was introduced in British India and which is called Wakf Validating Act of 1913. Muslims in Mysore who are also to be governed by Islamic Law feel the necessity of this act in Mysore. Hence this bill.

The Bill is based on the model of the Act No.VI of 1913 of British India.

Mohammed Abbas Khan

Bangalore,
Dated: 1st August 1941.

Mussalman Wakf Validity Bill

Bill to declare the rights of the Muslims to make settlement of property by way of "Wakf" in favour of their families, children and descendants.

Whereas doubts have arisen regarding the validity of Wakfs created by persons professing the Mussalman faith in favour of themselves, their families, children and descendants and ultimately for the benefit of the poor or for other religious, pious or charitable purposes; and whereas it is expedient to remove such doubts, it is hereby enacted as follows:--

1. (1) This Act may be called the Mussalman Wakf Validity Act 1941.

(2) It extends to the whole of Mysore and shall come into force at once.

2. In this Act unless there is anything repugnant in the subject or context,

(1) "Wakf" means the permanent dedication by a person professing the Mussalman faith of any property for any purpose recognised by the Mussalman law as religious, pious or charitable.

(2) "Hanafi Mussalman" means a follower of the Mussalman faith who conforms to the tenets and doctrines of the Hanafi School of Mussalman law.

3. It shall be lawful for any person professing the Mussalman faith to create a Wakf which in all other respects is in accordance with the provisions of Mussalman law, for the following among other purposes:--

(a) For the maintenance and support wholly or partially of his family, children or descendants and

(b) where the person creating a Wakf is a Hanafi Mussalman, also for his own maintenance and support during his life time or for the payment of his debts out of the rents and profits of the property dedicated:

Provided that the ultimate benefit is in such cases expressly or impliedly reserved for the poor or for any other purpose recognised by the Mussalman law as a religious, pious or charitable purpose of a permanent character.

4. No such Wakf shall be deemed to be invalid merely because the benefit reserved therein for the poor or other religious, pious or charitable purpose of a permanent nature is postponed until after the extinction of the family, children or descendants of the person creating the Wakf.

5. Nothing in this Act shall affect any custom or usage whether local or prevalent among Mussalmans of any particular class or sect.

NOTE.-- This Bill is based on the model of Act No. VI of 1913 which received the assent of the Governor-General on the 7th March 1913.

Mohammed abbas Khan
Member, Legislative
Council

2. MUSLIM DISSOLUTION OF MARRIAGE BILL.

Statement of Principles.

According to Shariath Law, marriage is a contract between two parties—husband and wife. Divorce that is to say annulling the marriage and freeing the parties from marriage ties and liberating them to marry again is also permitted. Husband can divorce his wife and this right is given to wife also. She can divorce the husband and this is called Khula in Shariath Law.

Indian Law Courts while they recognise the right of the husband to divorce, they deny the right of the wife to obtain Khula from the husband.

This inequality brought about between the rights of a husband and wife, has made Muslim husbands neglect the wives and refuse to divorce them or even maintain them. They tease the wives by neglecting them and not even providing their necessaries. Further husbands may suffer from some loathsome disease or may be convicted which will involve moral turpitude. To restore a right which Muslim females had and which was denied to them hitherto a Bill has been passed in British India. Muslims in Mysore are undergoing that trouble and hardships. It is therefore necessary to restore the rights of Muslim females. Hence this Act.

This Bill is based on the model of British Indian Act now in force in British India.

As the rights of Muslim females given to them under Islamic Law (Shariath) are very wide and the Mysore Courts have been denying these rights to them on account of which they suffer a great deal; hence the need for this Bill.

THE MUSLIM DISSOLUTION OF MARRIAGE BILL.

To consolidate the provisions of Muslim Law relating to suits by married Muslim women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie.

WHEREAS it is expedient to consolidate the provisions of Muslim Law relating to suits by married women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie;

It is hereby enacted as follows:—

1. (1) This Act may be called the Muslim Dissolution of Marriage Act, 194 .

(2) It shall apply to the whole of Mysore State and shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context, (1) "Maliki Law" shall mean Muslim Law as laid down by the "Maliki School"; and (2) "Hanafi Law" shall mean Muslim Law as laid down by the "Hanafi School".

3. A married Muslim woman may bring a suit against her husband for the dissolution of her marriage on any one or more of the following grounds:—

(A) 1. That the whereabouts of the husband have not been known for a period of four years.

2. That her husband has been insane for a period of two years or is suffering from virulent form of venereal disease.
3. That her husband neglects or refuses to maintain her and she has no means to maintain herself.
4. That her husband persistently treats her with unbearable cruelty, that is to say :—
   (*a*) habitually assaults her or makes her life miserable by cruelty of conduct.
   (*b*) associates with women of evil repute or leads an infamous life.
   (*c*) attempts to force her to lead an immoral life, or
   (*d*) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran.
5. That the husband has been sentenced to imprisonment for a period of seven years or upwards.

(B) 1. That being entitled to exercise her option of puberty, she has repudiated the marriage.
2. That her marriage was void or invalid *ab initio* or has become invalid by virtue of some subsequent event.
3. That her husband was impotent at the time of marriage and continues to be so.
4. That her husband has accused her of unchastity.
5. For any other reason which may be sufficient under Muslim Law for the dissolution of marriage.

4. (1) Suits brought on grounds mentioned in Section 3 (A) shall be heard and decided according to Maliki Law.

(2) Suits brought on grounds mentioned in Section 3 (B) shall be heard and decided according to Hanafi Law.

5. The conversion of a married Muslim woman to a faith other than Islam shall not by itself operate to dissolve her marriage.

6. (*a*) Subject to the provisions laid down in the Mysore Code of Civil Procedure, regarding the trial of suits, a suit for the dissolution of marriage by a married Muslim woman shall be filed in the Court of District Judge.

(*b*) Appeals from the decision of the trial Court shall lie to the High Court.

NOTE.—This Bill is based on the model of British Indian Act now in force in British India.

Proposed by—

Khan Bahadur MOHAMED ABBAS KHAN,
Member, Legislative Council.

BANGALORE,
1st October 1942.

B. K. RAMAKRISHNAIYA,
Secretary,
Representative Assembly.

WD 5067—400—GBP—3-10-42

Appendix F G—1]
R. A. & L. C.

SUBJECT.....

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.....

General and Revenue Secretariat
R. A. & L. C.
( )

Date of issue 11.6.42

Signed by ..... M. B. K. R.

List of enclosures .....

Copied by .....

Examined by .....

Section

File No.

Serial No.

No. 7360. L.C.

Diary No. of letter replied to .....

To Khan Bahadur Mohammed Afzal Khan, Member of the Legislative Council, Bangalore.

Sir,

I have the honour to intimate that the Statement of ~~the Government~~ of principles ~~relating~~ to the Muslim Wakf Validating Bill proposed to be introduced in the Legis. Council, ~~sponsored by you~~ were placed before the R.A. of the Budget Session June 1942 and the same were not opposed by the Chamber House.

I have etc.

BKR

Secretary,

Representative Affairs

W.
10-6-42 BVN 11/6

No. 7360. L.C.

11th June 1942.

Khan Bahadur Mohamed Abbas Khan,
Member, Legislative Council,
Bangalore.

I have the honour to intimate that the statement of principles of the Mussalman Wakf Validating Bill proposed to be introduced by you in the Legislative Council, were placed before the Representative Assembly of the Budget Session, - June 1942 and the same were not approved by the House.

I have the honour to be,
Sir,
Your most obedient servant,

SECRETARY,
Representative Assembly.

PR.

Appendix F G—1]
R. A. & L. C.

SUBJECT.....

.....

.....

Diary No. of letter replied to .....

General and Revenue Secretariat
R. A. & L. C.
( )

Date of issue 31.10.42

Signed by Mr. B.K.R.

List of enclosures .....

Copied by .....

Examined by .....

Section

File No.

Serial No.

No. 2391/RA.

To

Shafiq ul-Mulk, Khan Bahadur,
Nob. Abbas Khan, Member, L.C.
— Arcot Srinivasa Chari, Esqr.
B. C/3

Sir,

I have the honour to intimate that the Muslim Dissolution of Marriage bill, proposed to be introduced ~~Sponsored~~ by you at the L.C. was placed for Consideration at the recent Dasara session of the R. A., (Octr., 1942). I to state that the Principles of the bill were appd. by the Chamber

I have &c
BKR
Secretary. RA
2502

2391 /RA.

Shafiq-ul-Mulk Khan Bahadur
Mahomed ABBAS KHAN,
Member, Legislative Counc
Arcot Srinivasa Char Street,
Bangalore City.

I have the honour to intimate that the Muslim Dissolution of Marriage Bill, proposed to be introduced by you at the Legislative Council, was placed for consideration at the recent Dasara session of the Representative Assembly (October, 1942) and to state that the Principles of the Bill were approved by the Chamber.

I have etc.,

B K Ramakrishnayya

SECRETARY,
Representative Assembly.

Bs.

OFFICE OF THE SECRETARY
Mr. DS
31 OCT. 1942
REPRESENTATIVE ASSEMBLY
AND
LEGISLATIVE COUNCIL

BANGALORE CITY,
30th October 1942.

From

Shafiq-ul-Mulk Khan Bahadur
Mohammed Abbas Khan,
Member,
Legislative Council,
BANGALORE CITY.

To

SECY. LAW DEPT.
31 OCT. 1942
GOVT OF MYSORE

The Secretary to Government,
Law Department,
BANGALORE.

Sir,

Now that my non-official Bill regarding the Mysore Muslim Dissolution of Marriages has been approved by the Assembly at its recent Session I beg to request under Rule 35 of the Mysore Legislative Rules that the above said bill may be kindly laid on the table at the next Session of the Legislative Council.

I beg to remain,
Sir,
Your most obedient servant,

Mohammed Abbas Khan

Statement of principles of the Bill to declare the rights of mussalmans to make settlement of property by way of "Wakf" in favour of their families, children and descendants.

According to Islamic Law a Mussalman is at liberty to create a Wakf (Trust) of his property reserving some interest for himself, his children and descendants and this tying down the property as to remain in his family and when the family becomes extinct the entire property will go to the benefit of the charity mentioned in the deed. As this tying down the property for more than a life period is repugnant to the provisions of transfer of property act and there are a series of decisions which lay down the rule that a man who create a Wakf cannot reserve any right either for his own benefit during his life time or for the benefit of his family or those in whom he is interested.

These decisions of the [illegible] Court are quite contrary to the spirit and principles of personal law of the Muslims according to Shariath. To remove the hardship and bring the Anglo-Mohamedan Law nearer to the spirit of the Shariath Law a bill of this type was introduced in British India and which is called Wakf Validating Act of 1913. Muslims in Mysore who are also to be governed by Islamic Law feel the necessity of this Act in Mysore. Hence this Bill.

The Bill is based on the model of the Act No.VI of 1913 of British India.

MUSSLMAN WAKF VALIDITY BILL

Bill to declare the rights of the Muslims to make settlement of property by way of "Wakf" in favour of their families, children and descendants.

Whereas doubts have arisen regarding the validity of Wakfs created by persons professing the Mussalman faith in favour of themselves, their families, children and descendants and ultimately for the benefit of the poor or for other religious, pious or charitable purposes; and whereas it is expedient to remove such doubts, it is hereby enacted as follows:-

1.(1) This Act may be called the Mussalman Wakf Validity Act 1941.

(2) It extends to the whole of Mysore and shall come into force at once.

2.~~(1)~~ In this Act unless there is anything repugnant in the subject or context,

(1) "Wakf" means the permanent dedication by a person professing the Mussalman faith ~~of~~ of any property for any purpose recognised by the Mussalman law as religious, pious or charitable.

(2) "Hanafi Mussalman" means a follower of the Mussalman faith who conforms to the tenets and doctrines of the Hanafi School of Mussalman law.

3. It shall be lawful for any person professing the

Mussalman faith to creat a Wakf which in all other respects is in accordance with the provisions of Mussalman law, for the following among other purposes:-

(a) For the Maintenance and support wholly or partially of his family, children or descendants, and

(b) where the person creating a Wakf is a Hanafi Mussalm also for his own maintenance and support during his life time or for the payment of his debts out of the rents and profits of the property dedicated:

Provided that the ultimate benefit is in such cases expressly or impliedly reserved for the poor or for any other purpose recognised by the Mussalman law as a religious, pious or charitable purpose of a permanent character.

4. No such Wakf shall be deemed to be invalid merely because the benefit reserved therein for the poor or other religious, pious or charitable purpose of a permanent nature is postponed until after the extinction of the family, children or descendants of the person creating the Wakf.

5. Nothing in this Act shall affect any custom or usage whether local or prevalent among Mussalmans of any particular class or sect.

Note.--This Bill is based on the model of Act No.VI of 1913 which received the assent of the Governor-General on the 7th March 1913.

HKR/2.

1. THE MUSSALMAN WAKF VALIDATING BILL.

Statement of principles.

According to Islamic Law a Mussalman is at liberty to create a Wakf (Trust) of his property reserving some interest for himself, his children and descendants and this tying down the property as to remain in his family and when the family becomes extinct the entire property will go to the benefit of the charity mentioned in the deed. As this tying down the property for more than a life period is repugnant to the provisions of transfer of property act and there are a series of decisions which lay down the rule that a man who creates a Wakf cannot reserve any right either for his own benefit during his life time or for the benefit of his family or those in whom he is interested.

These decisions of the Indian High Court are quite contrary to the spirit and principles of personal law of the Muslims according to Shariath. To remove the hardship and bring the Anglo-Mohamedan Law nearer to the spirit of the Shariath Law a bill of this type was introduced in British India and which is called Wakf Validating Act of 1913. Muslims in Mysore who are also to be governed by Islamic Law feel the necessity of this Act in Mysore. Hence this Bill.

The Bill is based on the model of the Act No. VI of 1913 of British India.

MUSSALMAN WAKF VALIDATING BILL.

Bill to declare the rights of the Muslims to make settlement of property by way of "Wakf" in favour of their families, children and descendants.

WHEREAS doubts have arisen regarding the validity of Wakfs created by persons professing the Mussalman faith in favour of themselves, their families, children and descendants and ultimately for the benefit of the poor or for other religious, pious or charitable purposes; and whereas it is expedient to remove such doubts, it is hereby enacted as follows :—

1. (1) This Act may be called the Mussalman Wakf Validating Act 1941.

(2) It extends to the whole of Mysore and shall come into force at once.

2. In this Act unless there is anything repugnant in the subject or context,

(1) "Wakf" means the permanent dedication by a person professing the Mussalman faith of any property for any purpose recognised by the Mussalman law as religious, pious or charitable.

(2) "Hanafi Mussalman" means a follower of the Mussalman faith who conforms to the tenets and doctrines of the Hanafi School of Mussalman law.

3. It shall be lawful for any person professing the Mussalman faith to create a Wakf which in all other respects is in accordance with the provisions of Mussalman law, for the following, among other purposes :—

(*a*) For the maintenance and support wholly or partially of his family, children or descendants, and

(*b*) where the person creating a Wakf is a Hanafi Mussalman, also for his own maintenance and support

during his life-time or for the payment of his debts out of the rents and profits of the property dedicated :

Provided that the ultimate benefit is in such cases expressly or impliedly reserved for the poor or for any other purpose recognised by the Mussalman law as a religious, pious or charitable purpose of a permanent character.

4. No such Wakf shall be deemed to be invalid merely because the benefit reserved therein for the poor or other religious, pious or charitable purpose of a permanent nature is postponed until after the extinction of the family, children or descendants of the person creating the Wakf.

5. Nothing in this Act shall affect any custom or usage whether local or prevalent among Mussalmans of any particular class or sect.

NOTE.—This Bill is based on the model of Act No. VI of 1913 which received the assent of the Governor-General on the 7th March 1913.

Proposed by—*Khan Bahadur* MOHAMED ABBAS KHAN,
Member, Legislative Council.

Statement of principles of the Bill to consolidate the provisions of Muslim Law relating to suits by married Muslim Women for dissolution of marriage.

According to Shariath Law marriage is a contract between two parties - husband and wife. Divorce that is to say annulling the marriage and freeing the parties from marriage ties and liberating them to marry again is also permitted. Husband can divorce his wife and this right is given to wife also. She can divorce the husband and this is called Khula in Shariath Law.

Indian Law Courts while they recognise the right of the husband to divorce, they deny the right of the wife to obtain Khula from the husband.

This inequality brought about between the rights of a husband and wife, has made Muslim husband neglect the wives and refuse to divorce them or even maintain them. They tease the wives by neglecting them and not even providing their necessaries. Further husbands may suffer from some loathsome disease or may be convicted which will involve moral turpitude. To restore a right which Muslim females had and which was denied to them hitherto a Bill has been passed in British India. Muslims in Mysore are undergoing that trouble and hardships. It is therefore necessary to restore the rights of Muslim females. Hence this Act.

This Bill is based on the model of British Indian Act now in force in British India.

As the rights of Muslim females given to them under Islamic Law (Shariath) are very wide and the Mysore Courts have been denying these rights to them on account of which they suffer a great deal. Hence the need for this Bill.

MUSLIM DISSOLUTION OF MARRIAGE BILL

To consolidate the provisions of Muslim Law relating to suits by married Muslim women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie

WHEREAS it is expedient to consolidate the provisions of Muslim Law relating to suits by married women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie; it is hereby enacted as follows:--

1. (1) This Act may be called the Mysore Muslim Dissolution of Marriage Act, 1941.

(2) It shall apply to the whole of Mysore State and shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context, (1) "Maliki Law" shall mean Muslim Law as laid down by the Maliki School"; and (2) "Hanafi Law" shall mean Muslim Law as laid down by the "Hanafi School".

3. A married Muslim woman may bring a suit against her husband for the dissolution of her marriage on any one or more of the following grounds:--

(A) 1. That the whereabouts of the husband have not been known for a period of four years.

2. That her husband has been insane for period of two years or is suffering from virulent form of veneral disease.

3. That her husband neglects or refuses to maintain her and she has no means to maintain herself.

4. That her husband persistently treats her with unbearable cruelty, that is to say:--

a) habitually assaults her or makes her life miserable by cruelty of conduct.

(b) associates with women of evil repute or leads an infamous life.

(c) attempts to force her to lead an immoral life or

(d) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran.

5. That the husband has been sentenced to imprisonment for a period of seven years or upwards.

(B). 1. That being entitled to exercise her option of puberty, she has repudiated the marriage.

2. That her marriage was void or invalid ab initio or has become invalid by virtue of some subsequent event.

3. That her husband was impotent at the time of marriage and continues to be so.

4. That her husband has accused her of unchastity.

5. For any other reason which may be sufficient under Muslim Law for the dissolution of marriage.

4. (1) Suits brought on grounds mentioned in Section 3 (A) shall be heard and decided according to Maliki Law.

(2) Suits brought on grounds mentioned in Section 3 (B) shall be heard and decided according to Hanafi Law.

5. The conversion of a married Muslim woman to a faith other than Islam shall not by itself operate to dissolve her marriage.

6. (a) Subject to the provisions laid down in the Mysore Code of Civil Procedure, regarding the trial of suits, a suit for the dissolution of marriage by a m[illegible]d Muslim woman shall be filed in the Court of District Judge.

(b) Appeals from the decision of the trial Court shall lie to the High Court.

Note:-- This Bill is based on the model of British Indian Act now in force in British India.

KSH

3. MUSLIM DISSOLUTION OF MARRIAGE BILL.

Statement of principles.

According to Shariath Law, marriage is a contract between two parties—husband and wife. Divorce that is to say annulling the marriage and freeing the parties from marriage ties and liberating them to marry again is also permitted. Husband can divorce his wife and this right is given to wife also. She can divorce the husband and this is called Khula in Shariath Law.

Indian Law Courts while they recognise the right of the husband to divorce, they deny the right of the wife to obtain Khula from the husband.

This inequality brought about between the rights of a husband and wife, has made Muslim husbands neglect the wives and refuse to divorce them or even maintain them. They tease the wives by neglecting them and not even providing their necessaries. Further husbands may suffer from some loathsome disease or may be convicted which will involve moral turpitude. To restore a right which Muslim females had and which was denied to them hitherto a Bill has been passed in British India. Muslims in Mysore are undergoing that trouble and hardships. It is therefore necessary to restore the rights of Muslim females. Hence this Act.

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As the rights of Muslim females given to them under Islamic Law (Shariath) are very wide and the Mysore Courts have been denying these rights to them on account of which they suffer a great deal; hence the need for this Bill.

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1. (1) This Act may be called the Muslim Dissolution of Mariage Act, 194 .

(2) It shall apply to the whole of Mysore State and shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context, (1) "Maliki Law" shall mean Muslim Law as laid down by the "Maliki School"; and (2) "Hanafi Law" shall mean Muslim Law as laid down by the "Hanafi School".

3. A married Muslim woman may bring a suit against her husband for the dissolution of her marriage on any one or more of the following grounds:—

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2. That her husband has been insane for period of two years or is suffering from virulent form of veneral disease.

3. That her husband neglects or refuses to maintain her and she has no means to maintain herself.

4. That her husband persistently treats her with unbearable cruelty, that is to say :—

(*a*) habitually assaults her or makes her life miserable by cruelty of conduct.

(*b*) associates with women of evil repute or leads an infamous life.

(*c*) attempts to force her to lead an immoral life or

(*d*) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran.

5. That the husband has been sentenced to imprisonment for a period of seven years or upwards.

(B) 1. That being entitled to exercise her option of puberty, she has repudiated the marriage.

2. That her marriage was void or invalid *ab initio* or has become invalid by virtue of some subsequent event.

3. That her husband was impotent at the time of marriage and continues to be so.

4. That her husband has accused her of unchastity.

5. For any other reason which may be sufficient under Muslim Law for the dissolution of marriage.

4. (1) Suits brought on grounds mentioned in Section 3 (A) shall be heard and decided according to Maliki Law.

(2) Suits brought on grounds mentioned in Section 3 (B) shall be heard and decided according to Hanafi Law.

5. The conversion of a married Muslim woman to a faith other than Islam shall not by itself operate to dissolve her marriage.

6. (*a*) Subject to the provisions laid down in the Mysore Code of Civil Procedure, regarding the trial of suits, a suit for the dissolution of marriage by a married Muslim woman shall be filed in the Court of District Judge.

(*b*) Appeals from the decision of the trial Court shall lie to the High Court.

NOTE.—This Bill is based on the model of British Indian Act now in force in British India.

Proposed by—

Khan Bahadur MOHAMED ABBAS KHAN,
Member, Legislative Council.

WD 4219—GPB—525—20-5-42

Appendix F G—1]
R. A. & L. C.

SUBJECT.....

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.....

Diary No. of letter replied to .....

General and Revenue Secretariat
R. A. & L. C.
( )

Date of issue ....16.3.43.....

Signed by G. B.K. Ramakrishnaiah

List of enclosures .....

Copied by .....

Examined by .....

Section

File No.

Serial No.

No. 4554-59 Le

To

Official Memorandum

A meeting of the Select committee to consider the Muslim Dissolution of Marriage Bill will be held at 1 P.M on Tuesday the 30th March 1943 in the chambers of the Minister for Education, Old public Offices Bangalore

By order

[illegible]

Secretary
to
the Select committee

Forwarded to:- BVVP 15/3/43.

(1) Mr. G.S. Nasrulla Shariff.

(2) " A.K. Syed Tajpeerzan

(3.) " L.S. Raju

4) Khan Bahadur Mahomed Abbas Khan

(5) Mr. K. Narayanaswamy Naidu

(6) " C. Lakshmana Gowda

Copy to:-

(1) President the Mysore legislative council

(2) R.A & I.C Office

(3) Office Branch

10 copies

Appendix F G—1]
R. A. & L. C

SUBJECT.....

.....

.....

Section

File No.

Serial No.

No. 4948-53LC

Diary No. of letter replied to .....

To

Official Memorandum

A meeting of the Select committee to consider the Muslim Dissolution of Marriage Bill will be held at 1 p.m on Wednesday the 7th April 1943 in the chambers of the Minister of Education, Old public Offices, Bangalore, instead of on Tuesday the 30th March 1943, as previously intimated in G.O. No 4554-59L.C. dated the 16th March 1943

General and Revenue Secretariat
R. A. & L. C.
( )

Date of issue 22/3/43

Signed by

List of enclosures .....

Copied by .....

Examined by .....

1943

By order

BKR

Secretary
to
the Select committee

18/3/43

Forwarded to:-

(1) Mr. G.S. Nakrulla Sheriff

(2) " A.K. Syed Tajpeeran

(3) " L.S. Raju

(4) " Khan Bahadur Mahomed Afthab Khan.

(5) " C. Narayanaswamy Naidu

(6) " C. Lakshmana Gowda

Copy to——

(1) President, the Mysore Legislative Council

(2) RA & LC Office

(3) Office Branch

Fair copy

No. 4534-594

Office of the Secretary,
Representative Assembly and
Legislative Council,
BANGALORE, Dated 16th March '43.

OFFICIAL MEMORANDUM.

A meeting of the Select Committee to consider the Muslim Dissolution of Marriage Bill will be held at 1 p.m. on Tuesday the 30th March 1943, in the Chambers of the Minister for Education, Old Public Offices, Bangalore.

By Order,

Secretary,
Select Committee to
the Legis. Council.

PR10.

~~PRx10.~~

~~Copy~~ To ~~the President,~~
~~Mysore Legislative Council.~~

1) Forwarded to 1) The Members of the Select committee
2) R.A. The Office
3) Office Branch
4) President, The Mysore Legislative council

Office copy

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

4968-53 Le

Office of the Secretary,
Representative Assembly and Legislative
C o u n c i l.

Dated, Bangalore, 19th March 1943.

OFFICIAL MEMORANDUM

A meeting of the Select Committee to consider the Muslim Dissolution of Marriage Bill will be held at 1 P.M., on Wednesday the 7th April 1943, in the chambers of the Minister for Education, Old Public Offices, Bangalore, instead of on Tuesday the 30th March 1943, as previously intimated in Official Memorandum No.4554-59/L.C., dated the 16th March 1943.

By Order,

BKR

Secretary to the
Select Committee.

Forwarded to :-

1) The Members of the Select Committee
2) President, the Mysore Legislative Council
(3) R.A. & L.C. Office
(4) Office Branch

D. No. .....

Ref. on Pet. No. ..... } 19 —19

App. No. .....

Dis. No. 5873-88 Cc

Enclosure ..... are .....

Dated ..... 30/4/43 .....

Approved on .....

Copied on ..... by .....

Examined on ..... by .....

Signed on .....

Despatched on .....

Entered in—

Current
Petition
Appeal

Register on .....

By .....

Periodical

Reminded on .....

DRAFT.

To

The

Docket Abstract.

Sir,

I have the honour to forward herewith a copy of the report of the Select Committee on the Dissolution of Muslim Marriage Bill, and to request you to kindly return it with your approval thereto, at an early date.

I have etc

By

Secretary.

To The Select committee

29-4-43.

W.D.-05043—GPB—30,000—30-12-41

Forwarded to:-

(1) Mr. S. Nabiulla Sheriff

(2) Moin-ul-Mizarath
A.K. Syed Tajpeeran

(3) Mr. L.S. Rama

(4) Khan Bahadur Mahomed Abbas Khan

(5) Mr. C. Narayanaswami Naidu

(6) " C. Lakshmana Gowda

Proceedings of the meeting of the Select Committee on the Dissolution of Muslim Marriage Bill, held in the chambers of the Minister for Education, on 7th April 1940, at 1 P.M.

Present.

1. Mr. J.Mahomed Imam (Chairman)
2. " C.Lakshmana Gowda
3. " C.Narayanaswamy Naidu
4. " O.S.Nasrulla Sheriff
5. " A.K.Syed Taj Peeran
6. " L.S.Raju
7. " Mahomed Abbas Khan.

Mr. MAHOMED ABBAS KHAN: We are thankful to the Secretary for having supplied us with copies of the British Indian Act. I have carefully studied the British Indian Act and I see no difference in essential facts between it and the Bill. For instance, the grounds upon which the dissolution of marriage is asked for in the Bill are the same as in the British Indian Act. But there is an improvement in the Act in respect of provisos. The essentials of the Bill and the Act are the same. I would suggest that we go through the British Indian Act and adopt it in toto with one or two modifications which may be discussed.

CHAIRMAN: We shall go through them side by side.

Mr. L.S.RAJU: We shall take up the British Indian Act first.

CHAIRMAN: We have to go through the Bill side by side with the Act.

It was agreed to adopt the Preamble of the British Indian Act in toto.

Mr. L.S.RAJU: I suggest the insertion of 'Muslim' after 'Dissolution of' and omission of 'Muslim' before 'Dissolution' in clause 1(1) of the Bill.

This was agreed to.

Mr. L.S.RAJU: I suggest the insertion of 'extends' for apply' and deletion of 'State' after 'Mysore' in clause 1(2) of the Bill.

This was agreed to.

Mr. L.S.RAJU: I think we may omit "and.....at once" in clause 1(2), as it is not definite.

Mr. C.NARAYANASWAMY NAIDU: I suggest the insertion

of "from the date of its publication in the official gazette" after "Mysore" in clause 1(2).

This was agreed to.

The Committee was unanimous to delete clause 2 and renumber the clauses.

(From clause 2, the British Indian Act was agreed to be adopted with modifications.)

Clause 2(iii)

Mr. L.S.RAJU: I recommend the inclusion of "for offences involving violence or moral turpitude" after "or upwards" as in the Cochin Act where it is said as "non-political acts".

The Committee was not in favour of it and it was agreed to retain the clause as it was.

Clause 2(vii)

Mr. A.K.SYED TAJ PEERAN: In Muslim Law after the father has given his daughter in marriage, she cannot repudiate it.

Mr. L.S.RAJU: Where is the provision in the Hanafi Law for dissolution of marriage in case the husband neglects his wife'

Mr. A.K.SYED TAJ PEERAN: But there is a provision in the Maliki Law.

Mr. C.NARAYANASWAMY NAIDU: Why not a minor repudiate a contract which is against the first principles of 'Contract'?

Mr. O.S.NASRULLA SHERIFF: Ulemmas have said that 15 years is the age of consummation.

Mr. A.K.SYED TAJ PEERAN: Suppose consummation takes place earlier; where is the remedy?

Mr. O.S.NASRULLA SHERIFF: There is no remedy.

Mr. A.K.SYED TAJ PEERAN: The clause does not give x her any protection.

Mr. L.S.RAJU: This clause is to guard against possible mishaps.

It was agreed to retain the clause as it was.

Clause 4.

Mr. A.K.SYED TAJ PEERAN: This is an improvement [illegible] the Bill and it is very healthy to have it.

Clause 6 (of the Bill).

Mr. L.S.RAJU: I request Mr. Abbas Khan not to press clause 6 as it would be very expensive for poor people to go to District Courts.

Mr. O.S.NASRULLA SHERIFF: I would respectfully urge that all matters relating to divorce may go before District Courts or Sub Courts and have a clause reducing the court-fee, since some of the Munsiffs may not understand such matters.

Mr. L.S.RAJU: Are there not judgments of High Court wherei findings of Munsiffs are upheld and those of District Judges' reversed? It is also difficult to travel to places where you have got District Courts.

Mr. MAHOMED ABBAS KHAN: Why should we specify the court?

Mr. O.S.NASRULLA SHERIFF: If it is not specified, the case will go to a Munsiff's Court, being the lowest court.

Mr. C.LAKSHMANA GOWDA: At least Sub Courts.

Mr. C.NARAYANASWAMY NAIDU: Munsiffs are as good as Subordinate Judges.

Mr. C. LAKSHMANA GOWDA: Some Munsiffs may be inexperienced as they are newly appointed.

Mr. L.S.RAJU: There is provision in the Code of Civil Procedure for a transfer of the case.

Mr. MAHOMED ABBAS KHAN: Districts Courts will have heavy work and Sessions Judges will be busy during sessions.

CHAIRMAN: With all that, there are appellate Courts.

Mr. O.S.NASRULLA SHERIFF: Then I will not press my suggestion.

It was agreed to delete the clause.

Clause 6 of the Act was agreed to be deleted.

Mr. Mahomed ABBAS KHAN: We feel that this Bill need not be republished.

Secretary to the Committee: Though we have disposed it of easily, we have to republish it as the Bill has undergone important changes.

Mr. Mahomed ABBAS KHAN: Then it may be republished.

The Committee adjourned for lunch and dispersed after lunch at 3 P.M.

Report of the Select Committee on
The Dissolution of Muslim Marriage Bill

We, the undersigned members of the Select Committee to which the Muslim Dissolution of Marriage Bill was referred, have considered the Bill and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

1. Preamble.- The amendments are only consequential or formal.

Clause 1.- The amendments are purely formal.

Clause 2.- The amended clause replaces clauses 2, 3 and 4 of the Bill referred to us. The opening words apply the clause to any woman married under Muslim law even though she may not herself profess Islam. The references to the various schools of law have been omitted and the grounds are made general in the belief that they will prove acceptable to all. The grounds set out in the Bill have been thoroughly overhauled and recast in the interests of greater precision and certain contingent provisions have been added by way of provisos.

Clause 3.- This is new; it provides that when the whereabouts of the husband are alleged to be unknown, his heirs shall be entitled to formal notice of the suit and to be heard in it.

Clause 4.- This reproduces substantially clause 5 of the Bill as referred to us, an exception being made in the case of a woman converted to Islam who reverts to her former faith.

Clause 5.- It is a saving clause, securing that a woman's right to dower remains unaffected by this Bill.

Clause 6 of the Bill referred to us has been omitted as its provisions were considered to contain practical difficulties.

2. The Bill was published, as required by the rules, in the official Gazette in English and in Kannada of 24th December 1942.

3. We think that the Bill has been so altered as to require

"Ll as Amended by the Select Committee

Bill 194

THE DISSOLUTION OF MUSLIM MARRIAGE ACT, ~~1939~~.

~~(Act No. VIII of 1939. 17th March, 1939.)~~

An Act to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of Marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie.

WHEREAS it is expedient to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie;

It is hereby enacted as follows:-

Short Title & Extent.

1. (1) This Act may be called the Dissolution of Muslim Marriages Act, 19~~39~~4.

(2) It extends to the whole of ~~British India~~ Myhle and shall come into force from the date of its publication in the Official Gazett.

Grounds for decree for dissolution of marriage.

2. A woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely:-

(i) that the whereabouts of the husband have not been known for a period of four years;

(ii) that the husband has neglected or has failed to provide for her maintenance for a period of two years;

(iii) that the husband has been sentenced to imprisonment for a period of seven years or upwards;

(iv) that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years;

(v) that the husband was impotent at the time of the marriage and continues to be so;

(vi) that the husband has been insane for a period of two years or is suffering from leprosy or a virulent venereal disease;

(vii) that she, having been given in marriage by her father or other guarian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years:

Provided that the marriage has not been consummated:

(viii) that the husband treats her with cruelty, that is to say,-

(a) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment, or

(b) associates with women of evil repute or leads an infamous life, or

(c) attempts to force her to lead an immoral life, or

(d) disposes of her property or prevents her exercising her legal rights over it, or

(e) obstructs her in the observance of her religious profession or practice, or

(f) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quoran;

(ix) on any other ground which is recognised as valid for the dissolution of marriages under Muslim law:

Provided that—

(a) no decree shall be passed on ground (iii) until the sentence has become final;

(b) a decree passed on ground (i) shall not take effect for a period of six months from the date of such decree, and if the husband appears either in person or through an authorised agent within that period and satisfies the Court that he is prepared to perform conjugal duties, the Court shall set aside the said decree; and

(c) before passing a decree on ground (v) the Court shall, on application by the husband, make an order requiring the husband to satisfy the Court within a period of one year from the date of such order that he has ceased to be impotent, and if the husband so satisfies the Court within such period, no decree shall be passed on the said ground.

Notice to be served on heirs of the husband when the husband's whereabouts are not known.

3. In a suit to which clause (i) of section 2 applies—

(a) the names and addresses of thepersons who would have been the heirs of the husband under Muslim law, if he had died on the date of the filing of the plaint shall be stated in the plaint.

(b) notice of the suit shall be served on such persons, and

(c) such persons shall have the right to be heard in the suit:

Provided that paternal uncle and brother of the husband, if any, shall be cited as parties if he or they are not heirs.

Effect of conversion to another faith.

4. The renunciation of Islam by a married Muslim woman or her conversion to a faith other than Islam shall not by itself operate to dissolve her marriage:

Provided that after such renunciation, or conversion, the woman shall be entitled to obtain a decree for the dissolution of her marriage on any or the grounds mentioned in section 2:

Provided further that the provisions of this section shall not apply to a woman converted to Islam from some other faith who re-embraces her former faith.

Rights to dower not to be affected.

5. Nothing contained in this Act shall affect any right which a married woman may have under Muslim law to her dower or any part thereof on the dissolution of her marriage.

Repeal of section 5 of Act XXVI of 1937.

6. Section 5 of the Muslim Personal Law (Shariat) Application Act, 1937, is hereby repealed.

List of members on the Select Committee

to consider the

MUSLIM DISSOLUTION OF MARRIAGE BILL.

Chairman.

Mr. C.Narayanaswamy Naidu.

Mr. C.Lakshmana Gowda.

Mr. O.S.Nasrulla Sheriff.

Moin-ul-Vizarath A.K.Syed Taj Peeran.

Mr. L. S. Raju, and

Shafiq-ul-Mulk, Khan Bahadur Md. Abbas Khan

MYSORE LEGISLATIVE COUNCIL

DECEMBER, 1942.

MUSLIM DISSOLUTION OF MARRIAGE BILL.

BY

Shafiq-ul-Mulk Khan Bahadur MOHAMED ABBAS KHAN,
Member, Legislative Council.

Statement of Objects and Reasons.

According to Shariath Law, marriage is a contract between two parties—husband and wife. Divorce that is to say annulling the marriage and freeing the parties from marriage ties and liberating them to marry again is also permitted. Husband can divorce his wife and this right is given to wife also. She can divorce the husband and this is called *Khula* in Shariath Law.

Indian Law Courts while they recognise the right of the husband to divorce, they deny the right of the wife to obtain *Khula* from the husband.

This inequality brought about between the rights of a husband and wife, has made Muslim husbands neglect the wives and refuse to divorce them or even maintain them. They tease the wives by neglecting them and not even providing their necessaries. Further, husbands may suffer from some loathsome disease or may be convicted which will involve moral turpitude. To restore a right which Muslim females had and which was denied to them hitherto, a Bill has been passed in British India. Muslims in Mysore are undergoing that trouble and hardships. It is therefore necessary to restore the rights of Muslim females. Hence this Act.

This Bill is based on the model of British Indian Act now in force in British India.

As the rights of Muslim females given to them under Islamic Law (Shariath) are very wide and the Mysore Courts have been denying these rights to them on account of which they suffer a great deal; hence the need for this Bill.

THE MUSLIM DISSOLUTION OF MARRIAGE BILL.

To consolidate the provisions of Muslim Law relating to suits by married Muslim women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie.

WHEREAS it is expedient to consolidate the provisions of Muslim Law relating to suits by married women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie;

It is hereby enacted as follows :—

1. (1) This Act may be called the Muslim Dissolution of Marriage Act, 194 .

(2) It shall apply to the whole of Mysore ~~State~~ and shall come into ~~force at once~~.

2. In this Act, unless there is anything repugnant in the subject or context, (1) "Maliki Law" shall mean Muslim Law as laid down by the "Maliki School"; and (2) "Hanafi Law" shall mean Muslim Law as laid down by the "Hanafi School".

3. A married Muslim woman may bring a suit against her husband for the dissolution of her marriage on any one or more of the following grounds : —

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2. That her husband has been insane for a period of two years or is suffering from virulent form of venereal disease.

3. That her husband neglects or refus maintain her and she has no means to maintain herself.

4. That her husband persistently treats her with unbearable cruelty, that is to say :—

(*a*) habitually assaults her or makes her life miserable by cruelty of conduct;

(*b*) associates with women of evil repute or leads an infamous life;

(*c*) attempts to force her to lead an immoral life; or

(*d*) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran.

5. That the husband has been sentenced to imprisonment for a period of seven years or upwards.

(B) 1. That being entitled to exercise her option of puberty, she has repudiated the marriage.

2. That her marriage was void or invalid *ab initio* or has become invalid by virtue of some subsequent event.

3. That her husband was impotent at the time of marriage and continues to be so.

4. That her husband has accused her of unchastity.

5. For any other reason which may be sufficient under Muslim Law for the dissolution of marriage.

4. (1) Suits brought on grounds mentioned in Section 3 (A) shall be heard and decided according to Maliki Law.

(2) Suits brought on grounds mentioned in Section 3 (B) shall be heard and decided according to Hanafi Law.

5. The conversion of a married Muslim woman to a faith other than Islam shall not by itself operate to dissolve her marriage.

6. (*a*) Subject to the provisions laid down in the Mysore Code of Civil Procedure, regarding the trial of suits, a suit for the dissolution of marriage by a married Muslim woman shall be filed in the Court of District Judge.

(*b*) Appeals from the decision of the trial Court shall lie to the High Court.

[NOTE.—This Bill is based on the model of British Indian Act now in force in British India.]

BANGALORE,
9th December 1942.

B. K. RAMAKRISHNAIYA,
Secretary,
Mysore Legislative Council.

WD 5430—150—GBP—10-12 42

MYSORE LEGISLATIVE COUNCIL

DECEMBER, 1942.

MUSLIM DISSOLUTION OF MARRIAGE BILL

BY

Shafiq-ul-Mulk Khan Bahadur MOHAMED ABBAS KHAN,
Member, Legislative Council.

Statement of Objects and Reasons

According to Shariath Law, marriage is a contract between two parties—husband and wife. Divorce that is to say annulling the marriage and freeing the parties from marriage ties and liberating them to marry again is also permitted. Husband can divorce his wife and this right is given to wife also. She can divorce the husband and this is called *Khula* in Shariath Law.

Indian Law Courts while they recognise the right of the husband to divorce, they deny the right of the wife to obtain *Khula* from the husband.

This inequality brought about between the rights of a husband and wife, has made Muslim husbands neglect the wives and refuse to divorce them or even maintain them. They tease the wives by neglecting them and not even providing their necessaries. Further, husbands may suffer from some loathsome disease or may be convicted which will involve moral turpitude. To restore a right which Muslim females had and which was denied to them hitherto, a Bill has been passed in British India. Muslims in Mysore are undergoing that trouble and hardships. It is therefore necessary to restore the rights of Muslim females. Hence this Act.

This Bill is based on the model of British Indian Act now in force in British India.

As the rights of Muslim females given to them under Islamic Law (Shariath) are very wide and the Mysore Courts have been denying these rights to them on account of which they suffer a great deal; hence the need for this Bill.

2

THE MUSLIM DISSOLUTION OF MARRIAGE BILL.

To consolidate the provisions of Muslim Law relating to suits by married Muslim women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie.

WHEREAS it is expedient to consolidate the provisions of Muslim Law relating to suits by married women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie;

It is hereby enacted as follows:—

1. (1) This Act may be called the Muslim Dissolution of Marriage Act, 194

(2) It shall apply to the whole of Mysore State and shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context, (1) "Maliki Law" shall mean Muslim Law as laid down by the "Maliki School"; and (2) "Hanafi Law" shall mean Muslim Law as laid down by the "Hanafi School".

3. A married Muslim woman may bring a suit against her husband for the dissolution of her marriage on any one or more of the following grounds:—

(A) 1. That the whereabouts of the husband have not been known for a period of four years.

2. That her husband has been insane for a period of two years or is suffering from virulent form of venereal disease.

3 That her husband neglects or refuses to maintain her and she has no means to maintain herself.

4 That her husband persistently treats her with unbearable cruelty, that is to say:—

(a) habitually assaults her or makes her life miserable by cruelty of conduct;

(b) associates with women of evil repute or leads an infamous life;

(c) attempts to force her to lead an immoral life; or

(d) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran

5. That the husband has been sentenced to imprisonment for a period of seven years or upwards.

(B) 1. That being entitled to exercise her option of puberty, she has repudiated the marriage.

2. That her marriage was void or invalid *ab initio* or has become invalid by virtue of some subsequent event.

3. That her husband was impotent at the time of marriage and continues to be so.

4. That her husband has accused her of unchastity.

5. For any other reason which may be sufficient under Muslim Law for the dissolution of marriage.

4. (1) Suits brought on grounds mentioned in Section 3 (A) shall be heard and decided according to Maliki Law.

(2) Suits brought on grounds mentioned in Section 3 (B) shall be heard and decided according to Hanafi Law.

5. The conversion of a married Muslim woman to a faith other than Islam shall not by itself operate to dissolve her marriage.

6. (*a*) Subject to the provisions laid down in the Mysore Code of Civil Procedure, regarding the trial of suits, a suit for the dissolution of marriage by a married Muslim woman shall be filed in the Court of District Judge.

(*b*) Appeals from the decision of the trial Court shall lie to the High Court.

[NOTE.—This Bill is based on the model of British Indian Act now in force in British India.]

BANGALORE,
9th December 1942.

B. K. RAMAKRISHNAIYA,
Secretary,
Mysore Legislative Council.

WD 5430—150—GBP—10-12 42

MYSORE LEGISLATIVE COUNCIL

DECEMBER, 1942.

MUSLIM DISSOLUTION OF MARRIAGE BILL.

By

Shafiq-ul-Mulk Khan Bahadur MOHAMED ABBAS KHAN,
Member, Legislative Council.

Statement of Objects and Reasons

According to Shariath Law, marriage is a contract between two parties—husband and wife. Divorce that is to say annulling the marriage and freeing the parties from marriage ties and liberating them to marry again is also permitted. Husband can divorce his wife and this right is given to wife also. She can divorce the husband and this is called *Khula* in Shariath Law.

Indian Law Courts while they recognise the right of the husband to divorce, they deny the right of the wife to obtain *Khula* from the husband.

This inequality brought about between the rights of a husband and wife, has made Muslim husbands neglect the wives and refuse to divorce them or even maintain them. They tease the wives by neglecting them and not even providing their necessaries. Further, husbands may suffer from some loathsome disease or may be convicted which will involve moral turpitude. To restore a right which Muslim females had and which was denied to them hitherto, a Bill has been passed in British India. Muslims in Mysore are undergoing that trouble and hardships. It is therefore necessary to restore the rights of Muslim females. Hence this Act.

This Bill is based on the model of British Indian Act now in force in British India.

As the rights of Muslim females given to them under Islamic Law (Shariath) are very wide and the Mysore Courts have been denying these rights to them on account of which they suffer a great deal; hence the need for this Bill.

THE MUSLIM DISSOLUTION OF MARRIAGE BILL.

To consolidate the provisions of Muslim Law relating to suits by married Muslim women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie.

WHEREAS it is expedient to consolidate the provisions of Muslim Law relating to suits by married women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie;

It is hereby enacted as follows :—

1. (1) This Act may be called the Muslim Dissolution of Marriage Act, 194 .

(2) It shall apply to the whole of Mysore State and shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context, (1) "Maliki Law" shall mean Muslim Law as laid down by the "Maliki School"; and (2) "Hanafi Law" shall mean Muslim Law as laid down by the "Hanafi School".

3. A married Muslim woman may bring a suit against her husband for the dissolution of her marriage on any one or more of the following grounds : —

'A) 1. That the whereabouts of the husband have not been known for a period of four years.

2. That her husband has been insane for a period of two years or is suffering from virulent form of venereal disease.

3. That her husband neglects or refuses to maintain her and she has no means to maintain herself.

4 That her husband persistently treats her 'ith unbearable cruelty, that is to say : —

(*a*) habitually assaults her or makes her life miserable by cruelty of conduct;

(*b*) associates with women of evil repute or leads an infamous life;

(*c*) attempts to force her to lead an immoral life; or

(*d*) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran.

5. That the husband has been sentenced to imprisonment for a period of seven years or upwards.

1. That being entitled to exercise her option of puberty, she has repudiated the marriage.
2. That her marriage was void or invalid *ab initio* or has become invalid by virtue of some subsequent event.
3. That her husband was impotent at the time of marriage and continues to be so.
4. That her husband has accused her of unchastity.
5. For any other reason which may be sufficient under Muslim Law for the dissolution of marriage.

4. (1) Suits brought on grounds mentioned in Section 3 (A) shall be heard and decided according to Maliki Law.

(2) Suits brought on grounds mentioned in Section 3 (B) shall be heard and decided according to Hanafi Law.

5. The conversion of a married Muslim woman to a faith other than Islam shall not by itself operate to dissolve her marriage.

6. (*a*) Subject to the provisions laid down in the Mysore Code of Civil Procedure, regarding the trial of suits, a suit for the dissolution of marriage by a married Muslim woman shall be filed in the Court of District Judge.

(*b*) Appeals from the decision of the trial Court shall lie to the High Court.

[NOTE.—This Bill is based on the model of British Indian Act now in force in British India.]

BANGALORE,
9th December 1942.

B. K. RAMAKRISHNAIYA
Secretary,
Mysore Legislative Council.

WD 5430—150—GBP—10-12 42

THE DISSOLUTION OF MUSLIM MARRIAGE ACT, 1939.

Act No. VIII of 1939. 17th March, 1939.

An Act to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of Marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie.

WHEREAS it is expedient to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie;

It is hereby enacted as follows:-

Short Title & Extent.

1. (1) This Act may be called the Dissolution of Muslim Marriages Act, 1939.

(2) It extends to the whole of British India.

Grounds for decree for dissolution of marriage.

2. A woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely:

(i) that the whereabouts of the husband have not been known for a period of four years;

(ii) that the husband has neglected or has failed to provide for her maintenance for a period of two years;

(iii) that the husband has been sentenced to imprisonment for a period of seven years or upwards;

(iv) that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years;

(v) that the husband was impotent at the time of the marriage and continues to be so;

(vi) that the husband has been insane for a period of two years or is suffering from leprosy or a virulent venereal disease;

(vii) that she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years;

Provided that the marriage has not been consummated:

(viii) that the husband treats her with cruelty, that is to say,-

(a) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment, or

(b) associates with women of evil rep or leads an infamous life, or

(c) attempts to force her to lead an immoral life, or

(d) disposes of her property or prevents her exercising her legal rights over it, or

(e) obstructs her in the observance of her religious profession or practice, or

(f) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran;

(ix) on any other ground which is recognised as valid for the dissolution of marriages under Muslim law:

Provided that—

(a) no decree shall be passed on ground (iii) until the sentence has become final;

(b) a decree passed on ground (i) shall not take effect for a period of six months from the date of such decree, and if the husband appears either in person or through an authorised agent within that period and satisfies the Court that he is prepared to perform conjugal duties, the Court shall set aside the said decree: and

(c) before passing a decree on ground (v) the Court shall, on application by the husband, make an order requiring the husband to satisfy the Court within a period of one year from the date of such order that he has ceased to be impotent, and if the husband so satisfies the Court within such period, no decree shall be passed on the said ground.

Notice to be served on heirs of the husband when the husband's whereabouts are not known.

3. In a suit to which clause (i) of section 2 applies—

(a) the names and addresses of thepersons who would have been the heirs of the husband under Muslim law, if he had died on the date of the filing of the plaint shall be stated in the plaint.

(b) notice of the suit shall be served on such persons, and

(c) such persons shall have the right to be heard in the suit:

Provided that paternal uncle and brother of the husband, if any, shall be cited as jointly if he or they are not heirs.

Effect of conversion to another faith.

4. The renunciation of Islam by a married Muslim woman or her conversion to a faith other than Islam shall not by itself operate to dissolve her marriage:

Provided that after such renunciation, or conversion, the woman shall be entitled to obtain a decree for the dissolution of her marriage on any of the grounds mentioned in section 2:

Provided further that the provisions of this section shall not apply to a woman converted to Islam from some other faith who re-embraces her former faith.

Rights to dower not to be affected.

5. Nothing contained in this Act shall affect any right which a married woman may have under Muslim law to her dower or any part thereof on the dissolution of her marriage.

Repeal of section 5 of Act XXVI of 1937.

6. Section 5 of the Muslim Personal Law (Shariat) Application Act, 1937, is hereby repealed.

NOTIFICATION.

No. 1088—*Kl., dated Bangalore, 1st June* 1943.

Under Standing Order 36 of the Legislative Council Standing Orders, the following report of the Select Committee on the Dissolution of Muslim Marriage Bill and the Bill as amended by the Select Committee are published for general information.

By Order,

B. K. RAMAKRISHNAIYA,

Secretary,

Mysore Legislative Council.

REPORT OF THE SELECT COMMITTEE ON THE DISSOLUTION OF MUSLIM MARRIAGE BILL.

We, the undersigned members of the Select Committee to which the Muslim Dissolution of Marriage Bill was referred, have considered the Bill and have now the honour to submit this, our report, with the Bill as amended by us annexed thereto.

1. *Preamble.*—The amendments are only consequential or formal.

Clause 1.—The amendments are purely formal.

Clause 2.—The amended clause replaces clauses 2, 3 and 4 of the Bill referred to us. The opening words apply the clause to any woman married under Muslim Law even though she may not herself profess Islam. The references to the various schools of law have been omitted and the grounds are made general in the belief that they will prove acceptable to all. The grounds set out in the Bill have been thoroughly overhauled and recast in the interests of greater precision and certain contingent provisions have been added by way of provisos.

Clause 3.—This is new; it provides that when the whereabouts of the husband are alleged to be unknown, his heirs shall be entitled to formal notice of the suit and to be heard in it.

Clause 4.—This reproduces substantially clause 5 of the Bill as referred to us, an exception being made in the case of a woman converted to Islam who reverts to her former faith.

Clause 5.—It is a saving clause, securing that a woman's right to dower remains unaffected by this Bill.

Clause 6 of the Bill referred to us has been omitted as its provisions were considered to contain practical difficulties.

2. The Bill was published, as required by the rules, in the official Gazette in English and in Kannada of 24th December 1942.

3. We think that the Bill has been so altered as to require republication, and we recommend accordingly.

BANGALORE,
Dated 7th April 1943.

(Sd.) J. MAHOMED IMAM (*Chairman*).
„ C. NARAYANASWAMY NAIDU.
„ C. LAKSHMANA GOWDA.
„ O. S. NASRULLA SHERIFF.
„ A. K. SYED TAJ PEERAN.
„ L. S. RAJU.
„ MAHOMED ABBAS KHAN.

[AS AMENDED BY THE SELECT COMMITTEE]

[Words underlined or sidelined indicate the Amendments suggested by the Committee; omissions are indicated by asterisks].

THE * DISSOLUTION OF MUSLIM MARRIAGE BILL, 194

An act to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of Marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie.

Whereas it is expedient to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie ;

It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the * Dissolution of Muslim Marriage Act, 194 .

(*2*) It * * extends to the whole of Mysore * and shall came into force * * from the date of its publication in the official Gazette.

Grounds for decree for dissolution of marriage.

2. A woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely :—

(*i*) that the whereabouts of the husband have not been known for a period of four years ;

(*ii*) that the husband has neglected or has failed to provide for her maintenance for a period of two years ;

(*iii*) that the husband has been sentenced to imprisonment for a period of seven years or upwards ;

(*iv*) that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years ·

(*v*) that the husband was impotent at the time of marriage and continues to be so ;

(*vi*) that the husband has been insane for a period of two years or is suffering from leprosy or a virulent venereal disease ;

(*vii*) that she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years :

Provided that the marriage has not been consummated :

(*viii*) that the husband treats her with cruelty, that is to say.—

(*a*) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment, or

(*b*) associates with women of evil repute or leads on infamous life, or

(*c*) attempts to force her to lead an immoral life, or

(*d*) disposes of her property or prevents her exercising her legal rights over it, or

(*e*) obstructs her in the observance of her religious profession or practice, or

(*f*) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quoran;

(*ix*) on any other ground which is recognised as valid for the dissolution of marriages under Muslim law:

Provided that—

(*a*) no decree shall be passed on ground (*iii*) until the sentence has become final;

(*b*) a decree passed on ground (*i*) shall not take effect for a period of six months from the date of such decree, and if the husband appears either in person or through an authorised agent within that period and satisfies the Court that he is prepared to perform conjugal duties, the Court shall set aside the said decree; and

(*c*) before passing a decree on ground (*v*) the Court shall, on application by the husband, make an order requiring the husband to satisfy the Court within a period of one year from the date of such order that he has ceased to be impotent, and if the husband so satisfies the Court within such period, no decree shall be passed on the said ground.

Notice to be served on heirs of the husband where the husband's whereabouts are not known.

3. In a suit to which clause (*i*) of section 2 applies—

(*a*) the names and addresses of the persons who would have been the heirs of the husband under Muslim law, if he had died on the date of the filing of the plaint, shall be stated in the plaint.

(*b*) notice of the suit shall be served on such persons, and

(*c*) such persons shall have the right to be heard in the suit:

Provided that the paternal uncle and brother of the husband, if any, shall be cited as party if he or they are not heirs.

4. The renunciation of Islam by a married Muslim woman or her conversion to a faith other than Islam shall not by itself operate to dissolve her marriage: Renunciation or conversion to another faith.

Provided that after such renunciation, or conversion, the woman shall be entitled to obtain a decree for the dissolution of her marriage on any of the grounds mentioned in section 2:

Provided further that the provisions of this section shall not apply to a woman converted to Islam from some other faith who re-embraces her former faith.

5. Nothing contained in this Act shall affect any right which a married woman may have under Muslim law to her dower or any part thereof on the dissolution of her marriage. Rights to dower not to be affected.

As passed by the Legislative Council
3rd July, 1943.

NOTIFICATION.

No. 1088—*Rl.*, *dated Bangalore*, 1*st June* 1943.

Under Standing Order 36 of the Legislative Council Standing Orders, the following report of the Select Committee on the Dissolution of Muslim Marriage Bill and the Bill as amended by the Select Committee are published for general information.

By Order,

B. K. RAMAKRISHNAIYA,

Secretary,

Mysore Legislative Council.

REPORT OF THE SELECT COMMITTEE ON THE DISSOLUTION OF MUSLIM MARRIAGE BILL.

We, the undersigned members of the Select Committee to which the Muslim Dissolution of Marriage Bill was referred, have considered the Bill and have now the honour to submit this, our report, with the Bill as amended by us annexed thereto.

1. *Preamble.*—The amendments are only consequential or formal.

Clause 1.—The amendments are purely formal.

Clause 2.—The amended clause replaces clauses 2, 3 and 4 of the Bill referred to us. The opening words apply the clause to any woman married under Muslim Law even though she may not herself profess Islam. The references to the various schools of law have been omitted and the grounds are made general in the belief that they will prove acceptable to all. The grounds set out in the Bill have been thoroughly overhauled and recast in the interests of greater precision and certain contingent provisions have been added by way of provisos.

(Please see overleaf)

Clause 3.—This is new; it provides that when the whereabouts of the husband are alleged to be unknown, his heirs shall be entitled to formal notice of the suit and to be heard in it.

Clause 4.—This reproduces substantially clause 5 of the Bill as referred to us, an exception being made in the case of a woman converted to Islam who reverts to her former faith.

Clause 5.—It is a saving clause, securing that a woman's right to dower remains unaffected by this Bill.

Clause 6 of the Bill referred to us has been omitted as its provisions were considered to contain practical difficulties.

2. The Bill was published, as required by the rules, in the official Gazette in English and in Kannada of 24th December 1942.

3. We think that the Bill has been so altered as to require republication, and we recommend accordingly.

BANGALORE,
Dated 7th April 1943.

(Sd.) J. MAHOMED IMAM (*Chairman*).
„ C. NARAYANASWAMY NAIDU.
„ C. LAKSHMANA GOWDA.
„ O. S. NASRULLA SHERIFF.
„ A. K. SYED TAJ PEERAN.
„ L. S. RAJU.
„ MAHOMED ABBAS KHAN.

As bolted in the legislative council on 3rd July 1943

[AS AMENDED BY THE SELECT COMMITTEE]

[Words underlined or sidelined indicate the Amendents suggested by the Committee; omissions are indicated by asterisks].

THE * DISSOLUTION OF MUSLIM MARRIAGE BILL, 194

A Bill

An act to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of Marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie.

Whereas it is expedient to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie;

It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the * Dissolution of Muslim Marriage Act, 194

(*2*) It * * extends to the whole of Mysore * and shall came into force * * from the date of its publication in the official Gazette.

Grounds for decree for dissolution of marriage.

2. A woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely :—

(*i*) that the whereabouts of the husband have not been known for a period of four years ;

(*ii*) that the husband has neglected or has failed to provide for her maintenance for a period of two years ;

(*iii*) that the husband has been sentenced to imprisonment for a period of seven years or upwards ;

(*iv*) that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years ;

(*v*) that the husband was impotent at the time of marriage and continues to be so ;

(*vi*) that the husband has been insane for a period of two years or is suffering from leprosy or a virulent venereal disease ;

(*vii*) that she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years :

Provided that the marriage has not been consummated :

(*viii*) that the husband treats her with cruelty, that is to say.—

(*a*) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment, or

(*b*) associates with women of evil repute or leads on infamous life, or

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(*d*) disposes of her property or prevents her exercising her legal rights over it, or

(*e*) obstructs her in the observance of her religious profession or practice, or

(*f*) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quoran;

(*ix*) on any other ground which is recognised as valid for the dissolution of marriages under Muslim law:

Provided that—

(*a*) no decree shall be passed on ground (*iii*) until the sentence has become final;

(*b*) a decree passed on ground (*i*) shall not take effect for a period of six months from the date of such decree, and if the husband appears either in person or through an authorised agent within that period and satisfies the Court that he is prepared to perform conjugal duties, the Court shall set aside the said decree; and

(*c*) before passing a decree on ground (*v*) the Court shall, on application by the husband, make an order requiring the husband to satisfy the Court within a period of one year from the date of such order that he has ceased to be impotent, and if the husband so satisfies the Court within such period, no decree shall be passed on the said ground.

Notice to be served on heirs of the husband when the husband's whereabouts are not known.

3. In a suit to which clause (*i*) of section 2 applies—

(*a*) the names and addresses of the persons who would have been the heirs of the husband under Muslim law, if he had died on the date of the filing of the plaint, shall be stated in the plaint.

(*b*) notice of the suit shall be served on such persons, and

(*c*) such persons shall have the right to be heard in the suit.

Provided that the paternal uncle and brother of the husband, if any, shall be cited as party if he or they are not heirs.

Effect of conversion to another faith.

4. The renunciation of Islam by a married Muslim woman or her conversion to a faith other than Islam shall not by itself operate to dissolve her marriage:

Provided that after such renunciation, or conversion, the woman shall be entitled to obtain a decree for the dissolution of her marriage on any of the grounds mentioned in section 2:

Provided further that the provisions of this section shall not apply to a woman converted to Islam from some other faith who re-embraces her former faith.

Rights to dower not to be affected.

5. Nothing contained in this Act shall affect any right which a married woman may have under Muslim law to her dower or any part thereof on the dissolution of her marriage.

D. H. Chandrasekharaiya 12/7/63
president
Legislative council

Printed by the Superintendent at the Government Press, Bangalore.

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

Order No. 18 Legis B-43-1 Dated, Bangalore, 7th Aug 1943

Ordered that the accompanying Dissolution of Muslim Marriage Act 1943

which received the assent of His Highness the Maharaja, on the 28th day of July 1943, be published as Act No. XXIV XLIII of 1943, in the *Mysore Gazette*, for general information.

BKR 7/8/43

~~General~~ *Secretary to Government.*
Law Department

To

1. The Compiler, *Mysore Gazette*, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies in English and Kannada, as per standing orders.

2. Copy to the Translation Sect...

Office copy

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS
THE MAHARAJA OF MYSORE

RL 194 18

Order No. Legis 28-43-1

Dated Bangalore 16th August 1943.

Ordered that the accompanying Dissolution of Muslim Marriage Act, 1943, which received the assent of His Highness the Maharaja on the 28th day of July 1943, be published as Act No. XLIII of 1943, in the Mysore Gazette, for general information.

Secretary to Government,
Law Department.

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette, in English and Kannada, and for supply of spare copies in English and Kannada, as per standing orders.

Govt. Translation Section

NOTIFICATION.

No. 1088—*Rl., dated Bangalore, 1st June* 1943.

Under Standing Order 36 of the Legislative Council Standing Orders, the following report of the Select Committee on the Dissolution of Muslim Marriage Bill and the Bill as amended by the Select Committee are published for general information.

By Order,

B. K. RAMAKRISHNAIYA,

Secretary,

Mysore Legislative Council.

REPORT OF THE SELECT COMMITTEE ON THE DISSOLUTION OF MUSLIM MARRIAGE BILL.

We, the undersigned members of the Select Committee to which the Muslim Dissolution of Marriage Bill was referred, have considered the Bill and have now the honour to submit this, our report, with the Bill as amended by us annexed thereto.

1. *Preamble.*—The amendments are only consequential or formal.

Clause 1.—The amendments are purely formal.

Clause 2.—The amended clause replaces clauses 2, 3 and 4 of the Bill referred to us. The opening words apply the clause to any woman married under Muslim Law even though she may not herself profess Islam. The references to the various schools of law have been omitted and the grounds are made general in the belief that they will prove acceptable to all. The grounds set out in the Bill have been thoroughly overhauled and recast in the interests of greater precision and certain contingent provisions have been added by way of provisos.

Clause 3.—This is new; it provides that when the whereabouts of the husband are alleged to be unknown, his heirs shall be entitled to formal notice of the suit and to be heard in it.

Clause 4.—This reproduces substantially clause 5 of the Bill as referred to us, an exception being made in the case of a woman converted to Islam who reverts to her former faith.

Clause 5.—It is a saving clause, securing that a woman's right to dower remains unaffected by this Bill.

Clause 6 of the Bill referred to us has been omitted as its provisions were considered to contain practical difficulties.

2. The Bill was published, as required by the rules, in the official Gazette in English and in Kannada of 24th December 1942.

3. We think that the Bill has been so altered as to require republication, and we recommend accordingly.

BANGALORE,
Dated 7th April 1943.

(Sd.) J. MAHOMED IMAM (*Chairman*).
„ C. NARAYANASWAMY NAIDU.
„ C. LAKSHMANA GOWDA.
„ O. S. NASRULLA SHERIFF.
„ A. K. SYED TAJ PEERAN.
„ L. S. RAJU.
„ MAHOMED ABBAS KHAN.

[AS AMENDED BY THE SELECT COMMITTEE]

[Words underlined or sidelined indicate the Amendments suggested by the Committee; omissions are indicated by asterisks].

Act No XLIII of 1943 Act 1943

THE * DISSOLUTION OF MUSLIM MARRIAGE ~~BILL, 194~~

1 The assent of His Highness the Rajpramukh was given on the 28th day of July 1943

An act to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of Marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie.

Whereas it is expedient to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie ;

It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the * Dissolution of Muslim Marriage Act, 194 .

(*2*) It * * extends to the whole of Mysore * and shall came into force * * from the date of its publication in the official Gazette.

Grounds for decree for dissolution of marriage.

2. A woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely :—

(*i*) that the whereabouts of the husband have not been known for a period of four years ;

(*ii*) that the husband has neglected or has failed to provide for her maintenance for a period of two years ;

(*iii*) that the husband has been sentenced to imprisonment for a period of seven years or upwards ;

(*iv*) that the husband has failed to perform, without reasonable cause, his marital obligations for a period of three years ;

(*v*) that the husband was impotent at the time of marriage and continues to be so ;

(*vi*) that the husband has been insane for a period of two years or is suffering from leprosy or a virulent venereal disease ;

(*vii*) that she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years :

Provided that the marriage has not been consummated ;

(*viii*) that the husband treats her with cruelty, that is to say.—

(*a*) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment, or

(*b*) associates with women of evil repute or leads on infamous life, or

(*c*) attempts to force her to lead an immoral life, or

(*d*) disposes of her property or prevents her exercising her legal rights over it, or

(*e*) obstructs her in the observance of her religious profession or practice, or

(*f*) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quoran;

(*ix*) on any other ground which is recognised as valid for the dissolution of marriages under Muslim law:

Provided that—

(*a*) no decree shall be passed on ground (*iii*) until the sentence has become final;

(*b*) a decree passed on ground (*i*) shall not take effect for a period of six months from the date of such decree, and if the husband appears either in person or through an authorised agent within that period and satisfies the Court that he is prepared to perform conjugal duties, the Court shall set aside the said decree; and

(*c*) before passing a decree on ground (*v*) the Court shall, on application by the husband, make an order requiring the husband to satisfy the Court within a period of one year from the date of such order that he has ceased to be impotent, and if the husband so satisfies the Court within such period, no decree shall be passed on the said ground.

Notice to be served on heirs of the husband when the husband's whereabouts are not known.

3. In a suit to which clause (*i*) of section 2 applies—

(*a*) the names and addresses of the persons who would have been the heirs of the husband under Muslim law, if he had died on the date of the filing of the plaint, shall be stated in the plaint.

(*b*) notice of the suit shall be served on such persons, and

(*c*) such persons shall have the right to be heard in the suit:

Provided that the paternal uncle and brother of the husband, if any, shall be cited as party if he or they are not heirs.

Effect of conversion to another faith.

4. The renunciation of Islam by a married Muslim woman or her conversion to a faith other than Islam shall not by itself operate to dissolve her marriage:

Provided that after such renunciation, or conversion, the woman shall be entitled to obtain a decree for the dissolution of her marriage on any of the grounds mentioned in section 2:

Provided further that the provisions of this section shall not apply to a woman converted to Islam from some other faith who re-embraces her former faith.

Rights to dower not to be affected.

5. Nothing contained in this Act shall affect any right which a married woman may have under Muslim law to her dower or any part thereof on the dissolution of her marriage.

(Sd). N. Madhava Rao
Dewan

Printed by the Superintendent at the Government Press, Bangal

MYSORE LEGISLATIVE COUNCIL

DECEMBER, 1942.

MUSLIM DISSOLUTION OF MARRIAGE BILL.

By

Shafiq-ul-Mulk Khan Bahadur MOHAMED ABBAS KHAN,
Member, Legislative Council.

Statement of Objects and Reasons.

According to Shariath Law, marriage is a contract between two parties—husband and wife. Divorce that is to say annulling the marriage and freeing the parties from marriage ties and liberating them to marry again is also permitted. Husband can divorce his wife and this right is given to wife also. She can divorce the husband and this is called *Khula* in Shariath Law.

Indian Law Courts while they recognise the right of the husband to divorce, they deny the right of the wife to obtain *Khula* from the husband.

This inequality brought about between the rights of a husband and wife, has made Muslim husbands neglect the wives and refuse to divorce them or even maintain them. They tease the wives by neglecting them and not even providing their necessaries. Further, husbands may suffer from some loathsome disease or may be convicted which will involve moral turpitude. To restore a right which Muslim females had and which was denied to them hitherto, a Bill has been passed in British India. Muslims in Mysore are undergoing that trouble and hardships. It is therefore necessary to restore the rights of Muslim females. Hence this Act.

This Bill is based on the model of British Indian Act now in force in British India.

As the rights of Muslim females given to them under Islamic Law (Shariath) are very wide and the Mysore Courts have been denying these rights to them on account of which they suffer a great deal; hence the need for this Bill.

THE MUSLIM DISSOLUTION OF MARRIAGE BILL.

To consolidate the provisions of Muslim Law relating to suits by married Muslim women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie.

WHEREAS it is expedient to consolidate the provisions of Muslim Law relating to suits by married women for dissolution of marriage and to remove doubts as to the effect of apostasy of a married Muslim woman on her marriage tie ;

It is hereby enacted as follows :-

1. (1) This Act may be called the Muslim Dissolution of Marriage Act, 194 .

(2) It shall apply to the whole of Mysore State and shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context, (1) " Maliki Law " shall mean Muslim Law as laid down by the " Maliki School " ; and (2) " Hanafi Law " shall mean Muslim Law as laid down by the " Hanafi School ".

3. A married Muslim woman may against her husband for the dissolution of her marriage on any one or more of the following grounds : —

(A) 1. That the whereabouts of the husband have not been known for a period of four years.

2. That her husband has been insane for a period of two years or is suffering from virulent form of venereal disease.

3. That her husband neglects or refuses to maintain her and she has no means to maintain herself.

4. That her husband persistently treats her with unbearable cruelty, that is to say : —

(*a*) habitually assaults her or makes her life miserable by cruelty of conduct ;

(*b*) associates with women of evil repute or leads an infamous life ;

(*c*) attempts to force her to lead an immoral life ; or

(*d*) if he has more wives than one, does not treat her equitably in accordance with the injunctions of the Quran.

5. That the husband has been sentenced to imprisonment for a period of seven years or upwards.

(B) 1. That being entitled to exercise her option of puberty, she has repudiated the marriage.

2. That her marriage was void or invalid *ab initio* or has become invalid by virtue of some subsequent event.

3. That her husband was impotent at the time of marriage and continues to be so.

4. That her husband has accused her of unchastity.

5. For any other reason which may be sufficient under Muslim Law for the dissolution of marriage.

4. (1) Suits brought on grounds mentioned in Section 3 (A) shall be heard and decided according to Maliki Law.

(2) Suits brought on grounds mentioned in Section 3 (B) shall be heard and decided according to Hanafi Law.

5. The conversion of a married Muslim woman to a faith other than Islam shall not by itself operate to dissolve her marriage.

6. (*a*) Subject to the provisions laid down in the Mysore Code of Civil Procedure, regarding the trial of suits, a suit for the dissolution of marriage by a married Muslim woman shall be filed in the Court of District Judge.

(*b*) Appeals from the decision of the trial Court shall lie to the High Court.

[NOTE.—This Bill is based on the model of British Indian Act now in force in British India.]

BANGALORE,
9th December 1942.

B. K. RAMAKRISHNAIYA,
Secretary,
Mysore Legislative Council.

WD 5430—150—GBP—10-12 42

NOTIFICATION.

Order No. Rl. 194 *Legis.* 18-43-1, *dated Bangalore, the* 16*th August* 1943.

Ordered that the accompanying Dissolution of Muslim Marriage Act, 1943, which received the assent of His Highness the Maharaja on the 28th day of July 1943, be published as Act No. XLIII of 1943, in the *Mysore Gazette*, for general information.

C. NARAYANASWAMY NAIDU,
Secretary to Government,
Law Department.

ACT No. XLIII OF 1943.

THE DISSOLUTION OF MUSLIM MARRIAGE ACT, 1943.

An Act to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie.

(*Received the assent of His Highness the Maharaja on the* 28*th day of July* 1943.)

WHEREAS it is expedient to consolidate and clarify the provisions of Muslim law relating to suits for dissolution of marriage by women married under Muslim law and to remove doubts as to the effect of the renunciation of Islam by a married Muslim woman on her marriage tie ;

It is hereby enacted as follows :—

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(*vii*) that she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years:

Provided that the marriage has not been consummated:

(*viii*) that the husband treats her with cruelty, that is to say,—

(*a*) habitually assaults her or makes her life miserable by cruelty of conduct even if such conduct does not amount to physical ill-treatment, or

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(*c*) attempts to force her to lead an immoral life, or

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(*e*) obstructs her in the observance of her religious profession or practice, or

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(*ix*) on any other ground which is recognised as valid for the dissolution of marriages under Muslim law:

Provided that—

(*a*) no decree shall be passed on ground (*iii*) until the sentence has become final;

(*b*) a decree passed on ground (*i*) shall not take effect for a period of six months from the date of such decree, and if the husband appears either in person or through an authorised agent within that period and satisfies the Court that he is prepared to perform conjugal duties, the Court shall set aside the said decree; and

(*c*) before passing a decree on ground (*v*) the Court shall, on application by the husband, make an order requiring the husband to satisfy the Court within a period of one year from the date of such order that he has ceased to be impotent, and if the husband so satisfies the Court within such period, no decree shall be passed on the said ground.

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Provided that the paternal uncle and brother of the husband, if any, shall be cited as party if he or they are not heirs.

Effect of conversion to another faith.

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Provided that after such renunciation, or conversion, the woman shall be entitled to obtain a decree for the dissolution of her marriage on any of the grounds mentioned in section 2:

Provided further that the provisions of this section shall not apply to a woman converted to Islam from some other faith who re-embraces her former faith.

Rights to dower not to be affected

5. Nothing contained in this Act shall affect any right which a married woman may have under Muslim law to her dower or any part thereof on the dissolution of her marriage.

N. MADHAVA RAU,
Dewan.

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